

## Developments in Germany in the context of visa liberalisation: Study by the German National Contact Point for the European Migration Network (EMN)

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Veröffentlichungsversion / Published Version  
Arbeitspapier / working paper

### Empfohlene Zitierung / Suggested Citation:

Hoffmeyer-Zlotnik, P. (2019). *Developments in Germany in the context of visa liberalisation: Study by the German National Contact Point for the European Migration Network (EMN)*. (Working Paper / Bundesamt für Migration und Flüchtlinge (BAMF) Forschungszentrum Migration, Integration und Asyl (FZ), 83). Nürnberg: Bundesamt für Migration und Flüchtlinge (BAMF) Forschungszentrum Migration, Integration und Asyl (FZ); Bundesamt für Migration und Flüchtlinge (BAMF) Nationale Kontaktstelle für das Europäische Migrationsnetzwerk (EMN). <https://nbn-resolving.org/urn:nbn:de:0168-ssoar-67608-7>

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Federal Office  
for Migration  
and Refugees



# Developments in Germany in the context of visa liberalisation

Study by the German National Contact Point  
for the European Migration Network (EMN)

ENGLISH

Working Paper 83

Paula Hoffmeyer-Zlotnik



Forschung

Co-financed by the  
European Union





# Developments in Germany in the context of visa liberalisation

Study by the German National Contact Point  
for the European Migration Network (EMN)

Paula Hoffmeyer-Zlotnik





# Summary

This study examines developments in Germany in connection with visa liberalisation for five Western Balkan countries as well as for Georgia, Moldova and Ukraine between 2007 and 2017. The visa requirement for these states was lifted after approval by the European Parliament and the EU Council and was linked to the successful conclusion of visa liberalisation dialogues with the European Commission (Chapter 2). The visa waiver came into force for the third countries examined in this study on the following dates:

- FYR Macedonia, Montenegro and Serbia: 19 December 2009
- Albania, Bosnia and Herzegovina: 15 December 2010
- Moldova: 28 April 2014
- Georgia: 28 March 2017
- Ukraine: 11 June 2017

The lifting of the visa requirement for short stays in the Schengen area has above all facilitated short-term mobility for the third-country nationals concerned. From a legal perspective, this has no impact on the conditions for longer-term immigration, for example. However, it can be assumed that the facilitation of short-term stays will also lead to other changes relevant to migration, such as an increase in longer-term legal migration or irregular migration. In order to explore this, this study evaluates indicators to depict developments in the area of legal migration and irregular migration. However, within the present study it is not possible to establish a direct causal link between visa liberalisation and the developments outlined above.

The number of new arrivals decreased in all the countries under review (with the exception of Moldova) in the year prior to visa liberalisation and increased thereafter in the case of the Western Balkan countries and Moldova – in the case of Georgia and Ukraine, no developments can be identified at this point. For the Western Balkan countries, the number of asylum applications and residence permits issued for humanitarian reasons increased in the years following visa liberalisation. In the medium term, however, the share of humanitarian immigration has declined and the share of immigration for the purpose of employment has increased. The indicators presented in the area of irregular migration show a significant increase in 2014 and 2015 and an equally significant decrease in 2016, espe-

cially for the Western Balkan countries. Divergent developments can be observed for Georgia, Moldova and Ukraine (Chapter 3).

The abolition of the examination of visa applications creates the potential for misuse of the visa waiver, for example through entry and stay for purposes other than a short stay or through illegal employment during the visa-free stay. In the area of illegal employment, there has been an increase in the number of pre-trial investigations in the years following visa liberalisation. There has been no increase in the proportion of suspects from the countries under review among all non-German suspects in the police crime statistics (PCS), but the proportion of violations of the Residence Act with regard to all offences has increased for almost all these countries (with the exception of Georgia). The filing of an asylum application after visa-free entry does not in itself constitute abuse, even though the increase in asylum applications from visa-free countries had been discussed at several points in public discussion in this context (Chapter 4).

In order to respond to the increased number of asylum applications filed from 2014 onwards, measures were taken in Germany to control and limit asylum immigration: the processing of asylum applications from the Western Balkan countries was prioritised, the visa-free Western Balkan countries were classified as safe countries of origin between 2014 and 2015 and the possibilities for imposing re-entry restrictions were expanded. A number of measures have also been taken to restrict access to the labour market and integration services for people with 'little prospect to remain' that also affect accommodation during the asylum process. Measures have also been taken to increase the number of assisted voluntary returns and removals of irregular residents from visa-free countries. This includes obtaining the acceptance of EU travel documents by the countries of origin on return, information measures on the possibilities of promoting returns and reintegration measures. With the simplified legal labour migration channel for nationals of the Western Balkan countries, the possibilities for legal immigration from the Western Balkan countries in the form of labour migration have also been expanded (Chapter 5).

Visa liberalisation also affects the work of missions abroad and border police authorities of the countries

of destination. The Federal Police in particular therefore take measures prior to visa liberalisation to prevent or punish violations of the requirements for visa-free entry. This includes border police measures as well as measures in the visa-free countries themselves and cooperation with them. For missions abroad, the abolition of the visa requirement for short stays reduces the administrative burden and at the same time has a positive impact on bilateral relations with the countries concerned (Chapters 4.1 and 4.2).

# The European Migration Network

The European Migration Network (EMN) was launched by the European Commission in 2003 due to an initiative of the European Council in order to satisfy the need of a regular exchange of reliable information in the field of migration and asylum at the European level. Since 2008, Council Decision 2008/381/EC forms the permanent legal basis of the EMN and National Contact Points have been established in the EU Member States (with the exception of Denmark, which has observer status) plus Norway.

The EMN's role is to meet the information needs of European Union institutions, Member States' authorities and institutions as well as the wider public by providing up-to-date, objective, reliable and comparable information on migration and asylum, with a view to supporting policymaking in these areas. The National Contact Point for Germany is located at the Federal Office for Migration and Refugees in Nuremberg. Its main task is to implement the annual work programme of the EMN. This includes the drafting of the annual policy report "Migration, Integration, Asylum" and of up to four topic specific studies, as well as answering Ad-Hoc Queries launched by other National Contact Points or the European Commission. The German National Contact Point also carries out visibility activities and networking in several forums, e.g. through the organisation of conferences or the participation in conferences in Germany and abroad. Furthermore, the National Contact Points in each country set up national networks consisting of organisations, institutions and individuals working in the field of migration and asylum.

In general, the National Contact Points do not conduct primary research but collect, analyse and present existing data. Exceptions might occur when existing data and information are not sufficient. EMN studies are elaborated in accordance with uniform specifications valid for all EU Member States plus Norway in order to achieve comparable EU-wide results. Furthermore, the EMN has produced a Glossary, which ensures the application of comparable terms and definitions in all national reports and is available on the national and international EMN websites.

Upon completion of national reports, the European Commission drafts a synthesis report with the support of a service provider. This report summarises the most significant results of the individual national reports. In addition, topic-based policy briefs, so-called EMN Informs, are produced in order to present and compare selected topics in a concise manner. The EMN Bulletin, which is published quarterly, informs about current developments in the EU and the Member States. With the work programme of 2014, the Return Expert Group (REG) was created to address issues around voluntary return, reintegration and forced return.

All EMN publications are available on the website of the European Commission Directorate-General for Migration and Home Affairs. The national studies of the German National Contact Point as well as the synthesis reports, Informs and the Glossary are also available on the national website: [www.emn-germany.de](http://www.emn-germany.de)







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# 1 Introduction

## 1.1 Subject and aim of the study

The primary function of visa policy is to facilitate, manage and control migration. In this context, the abolition of the visa requirement for short stays in the Schengen area means, above all, facilitating short-term mobility. From the point of view of the European Commission, visa liberalisation is also "one of the Union's most powerful tools in facilitating people-to-people contacts and strengthening ties between the citizens of third countries and the Union" (European Commission 2017b: 1). This shows that visa policy can be both a migration policy tool and a foreign policy tool. The impact of visa liberalisation is diverse and can be seen in areas as broad-ranging and different as migration, tourism or trade.

This study examines developments in Germany in connection with visa liberalisation for five Western Balkan countries as well as for Georgia, Moldova and Ukraine. The study examines, among other things, whether the abolition of the visa requirement for short-term stays is impacting various forms of migration to Germany.

It is important to stress that visa liberalisation, as examined here, only refers to the requirement of a visa for short-term stays. From a legal point of view, this has no impact on the prerequisites for longer-term immigration, for example. However, it can be assumed that the facilitation of short-term stays will also lead to other changes relevant for migration, for example an increase in longer-term legal migration or irregular migration. In order to investigate this, this study evaluates indicators to illustrate trends in the area of legal migration (e.g. residence permits and Schengen visas issued), irregular migration (unauthorised entry, unauthorised residence, illegal employment) and asylum. In addition, the effect visa liberalisation is having on the authorities involved will be examined. Possible security risks and the risks related to misuse are also examined. Finally, the study presents measures that have been taken to ensure the lawful exercise of visa exemptions and to counteract the unintended consequences of visa liberalisation. This study cannot deal with further possible effects of visa liberalisation, for example in the areas of trade or tourism, due to the lack of corresponding data.

The data presented here do not allow for the establishment of a direct causal link between visa liberalisation and the developments outlined in this study. Any explanations given are therefore essentially descriptive.

The study is based on uniform specifications drawn up jointly by the National Contact Points of the European Migration Network (EMN 2018a). The study covers the years 2007 to 2017 and focuses in particular on migration flows from the Western Balkan countries whose nationals are allowed to enter the EU without a visa (Albania, Bosnia and Herzegovina, the Former Yugoslav Republic (FYR) of Macedonia, Montenegro and Serbia), as well as Georgia, Moldova and Ukraine. In addition to the above-mentioned countries, migration movements from Kosovo are also considered in some places. Kosovo is the only Western Balkan country whose nationals are currently not allowed to enter the EU without a visa. The comparison of statistical data between visa-free countries and Kosovo thus makes it possible to assess whether the developments analysed can be attributed to visa-free travel or whether this is not sufficient as an explanatory factor.

The study is structured as follows: Chapter 2 first outlines the legal framework for visa policy at European and national level and places visa liberalisation for the countries examined in this study in the context of EU visa policy. Chapter 3 presents various migration-related developments, including immigration to Germany, the granting of Schengen visas, asylum applications, indicators for irregular migration and returns. Chapter 4 provides an overview of the effect visa liberalisation is having on different areas; Chapter 5 presents measures taken in Germany in response to the various effects of visa liberalisation.

## 1.2 Sources used

The study is based largely on publicly accessible sources and statistics. Statistics from Eurostat and the European Commission (visa statistics) were used primarily to ensure EU-wide comparability of the study results. Where no Eurostat statistics were availa-



ble, national statistics were used, and in some cases, specific analyses of the Central Register of Foreigners (AZR) and the "Police Entry Statistics" (Polizeiliche Eingangsstatistik (PES)) of the Federal Police were requested. In addition, written requests were sent to the Federal Criminal Police Office, the Federal Police (BPOL), the Federal Foreign Office and the Central Customs Authority to obtain assessments of specific developments.<sup>1</sup>

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<sup>1</sup> I would like to take this opportunity to express our sincere thanks to all the authorities who supplied the material! I would also like to thank Nina Hänjes, Jakub Czarnecki and Nicolas Bodenschatz, who assisted with the preparation of this study during their internship at the Research Centre of the Federal Office for Migration and Refugees.

## 2 Visa policy and visa liberalisation

### 2.1 Visa policy in general

Visa policy, on the one hand, has the function of facilitating, managing and controlling migration. The examination of visa applications at missions abroad already clarifies prior to entry whether the applicants fulfil the requirements for a legal stay in Germany (Parusel/Schneider 2012: 19). On the other hand, visa policy is also an important foreign policy instrument in relations with other countries. "Friendly relations between countries may affect the policies governing migration or mobility, for example when a mutual waiver of the visa requirement is agreed [...] Conversely, from an international relations perspective, the deterioration of the relations between two nations may negatively influence their visa policies" (Parusel/Schneider 2012: 19).

The simplification of the visa procedure or the lifting of the visa requirement for entry are thus foreign policy instruments which the European Union uses in its neighbourhood and enlargement policy, among other things (Parusel/Schneider 2012: 19 et seq; European Commission 2018a). In addition, "visa policy can also be subjected to economic and commercial interests. To guarantee a maximum of freedom of movement for persons, goods and services between states all stakeholders (multinational corporate groups, industry associations, governments) will usually advocate a facilitation or possibly even the abolition of the visa regime" (Parusel/Schneider 2012: 20).

The abolition of the visa requirement can in turn have an impact on migration – both desirable (e.g. increasing short-term stays or business connections) and undesirable (e.g. increase in the number of overstayers"<sup>2</sup> or of unfounded asylum applications). This is one reason why agreements to facilitate visa issuance and visa liberalisation are generally linked to readmission agreements (European Commission 2018b).

<sup>2</sup> "Overstayers" are persons who do not leave the country after the expiry of the validity of a residence permit or after the expiry of the period during which they are entitled to reside in a country without a visa or other residence permit, and who are therefore irregular residents.

### 2.2 Legal framework for visa policy

#### 2.2.1 Legal basis

The rules for issuing short-term visas were originally part of the Schengen Agreement, a multilateral agreement concluded between some EU countries on the basis of international law (Hailbronner 2017: 31). With the Treaty of Amsterdam, the Schengen acquis was integrated into EU Treaty law. Since then, the provisions of the Schengen acquis have, in principle, applied to all EU countries, with Denmark, the United Kingdom and Ireland having a special status<sup>3</sup> and Bulgaria, Romania, Cyprus and Croatia applying the Schengen acquis only in part and not issuing Schengen visas (AA n.d.). In the field of visa policy, the EU has exclusive political and legislative competence to issue visas for short-term stays of up to 90 days.

The Visa Regulation (Council Regulation No 539/2001)<sup>4</sup> defines the countries whose nationals need a visa to enter the EU and the countries that are exempt from the visa requirement. These are listed in Annexes I and II to the Visa Regulation respectively. The Visa Code (Regulation (EC) No 810/2009)<sup>5</sup> lays down the conditions and procedure for issuing short-stay visas. The Schengen Borders Code (SBC; Regulation (EU) 2016/399)<sup>6</sup> regulates (among other things)

- <sup>3</sup> Denmark decides on a case-by-case basis whether to participate in the further development of the Schengen acquis on the basis of international law and whether to apply Schengen-related law as national law. Denmark is, however, bound by some of the measures taken in the realm of the common policy on issuing visas. Ireland and the United Kingdom are not parties to the Schengen agreement. They can apply the Schengen acquis partly or as a whole with the consent of the Council of the EU and participate in its further development. They do not issue Schengen visas. Both countries only apply the Schengen agreement party (AA n. d.).
- <sup>4</sup> Council Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement.
- <sup>5</sup> Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code)).
- <sup>6</sup> Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules

the entry requirements for third country nationals<sup>7</sup> into the Schengen area. The EU Visa Code Handbook contains detailed requirements and information on the visa procedure.

The Visa Information System (VIS) is a database to which all diplomatic missions and consular posts of the Schengen countries and border control points at the EU's external borders have access. The database contains fingerprints, passport photos and other data from the visa application (European Commission 2018c).

The Visa Code and the VIS are currently undergoing a reform process. On 14 March 2018, the European Commission proposed a recast of the Visa Code, which introduced a link between the issuance of visas and the cooperation of third countries regarding the readmission of persons obliged to leave the federal territory (European Commission 2018d). The reform of the VIS, for which the Commission presented a proposal on 16 May 2018, provides, for example, that the data of persons with long-term-visas and residence permits will also be stored in the VIS and that the interoperability<sup>8</sup> of the VIS with other European databases will be established (European Commission 2018e).

## 2.2.2 Types of visa

### Schengen visa

Schengen visas (or uniform visas; formerly known as C visas) entitle the holder to stay within the whole Schengen area for up to 90 days in any period of 180 days. They are issued by the Schengen country which is the sole or main destination or via which the person concerned enters (AA 2018).<sup>9</sup> The visa must normally be applied for at the diplomatic mission or consular post of the competent country prior to entry and can also be issued as a multiple-entry visa for repeated entries and departures within a certain period of time

(Article 24 of the Visa Code). During a short stay with a Schengen visa in Germany, employment is, in principle, not permitted. (Section 17 subs.1 of the Ordinance governing Residence).

The requirements for issuing Schengen visas are regulated uniformly for all participating countries in the EU Visa Code. These include, among other things, the plausibility and comprehensibility of the purpose of the travel, the ability to finance the cost of living and travel from one's own assets or income, the willingness of the visa holder to leave the Schengen area again before the visa expires and "travel health insurance with a minimum coverage of 30,000 euros valid for the entire Schengen area" (AA 2018; Article 32 paragraph 1 of the Visa Code). Proof of financing can also be "furnished by a third person who submits a formal declaration of commitment in accordance with Sections 66 to 68 of the Residence Act" (AA 2018). Furthermore, there must be no danger to public safety and order through entry (Article 32 paragraph 1 lit. a vi) of the Visa Code).

In addition to the uniform visa, the Visa Code also regulates the conditions for issuing airport transit visas (Article 26 of the Visa Code), for exceptional visas issued at external borders (Article 35 of the Visa Code) and for short-stay visas with limited territorial validity (Article 25 of the Visa Code). A visa with limited territorial validity (LTV visa) is valid for the territory of the issuing Member State. It may exceptionally be valid for the territory of more than one Member State, subject to the consent of each such Member State (Article 25 paragraph 2 of the Visa Code). A visa with limited territorial validity can be issued when the Member State concerned considers it necessary on humanitarian grounds, for reasons of national interest or because of international obligations even if the conditions for issuing a uniform visa are not fulfilled (Article 25 paragraph 1a of the Visa Code). If the applicant holds a travel document that is not recognised by one or more, but not all Member States, a visa valid for the territory of the Member States recognising the travel document shall be issued. (Article 25 paragraph 3 of the Visa Code), which is, for instance the case with Kosovo (Schengen visa info 2018).

### National visa

The issuance of national long-stay visas (formerly known as D visas) is a matter for the sovereignty of the EU Member State concerned, but "also entitles the holder to short stay (...) in other Member States" for up to 90 days per period of 180 days (Parusel/Schneider

governing the movement of persons across borders (Schengen Borders Code).

7 Third-country nationals within the meaning of the Schengen Borders Code include all persons who are not nationals of an EU Member State, a Member State of the European Economic Area (EEA) or Switzerland.

8 "Interoperability" means that different databases can be linked together. For example, information from several EU databases such as VIS, EURODAC or the Schengen Information System (SIS) can then be retrieved with a single query.

9 The explanations in this Chapter are based on EMN/BAMF (2018: 40).

2012: 22; Article 21 of the Convention Implementing the Schengen Agreement). In Germany, the issuance of a national visa is generally a prerequisite for the subsequent issuance of a long-term residence permit after entry (Parusel/Schneider 2012: 22). This is due to the fact that visas are issued by the German missions abroad; residence permits, however, are issued by the locally competent foreigners authorities within Germany. Nevertheless, the issuance of a visa generally requires the approval of the competent foreigners authority (AA 2018). National visas are therefore "provisional residence titles" (Parusel/Schneider 2012: 22) until the residence permit is issued by the foreigners authority.<sup>10</sup> The conditions for issuing a national visa depend on the conditions for issuing the residence permit intended for the purpose of the stay in question (residence or settlement permit, EU Blue Card, ICT<sup>11</sup> card or the EU long-term residence permit; Section 6 subs. 3 of the Residence Act. National visas are issued for a period of up to one year. (Parusel/Schneider 2012: 22).

### Conditions for visa-free entry

Third-country nationals who are exempt from the visa requirement for short stays can enter the Schengen area without making a previous application. However, they must also fulfil the entry requirements of the Schengen Borders Code, including having sufficient means of subsistence and the willingness to leave before the end of the 90 days. The general ban on employment also applies during the visa-free stay (Article 6 para. 1 lit. c of the Schengen Borders Code, Section 17 of the Ordinance governing Residence). The border authorities of the Schengen country which the person concerned is entering are responsible for checking that requirements are met (Article 8 of the Schengen Borders Code). In the future, the European Travel Information and Authorisation System (ETIAS) will also provide a registration and authorisation system for persons who do not require a visa to enter the country. ETIAS is similar to the US ESTA<sup>12</sup> and is mainly used to check security risks prior to entry. The European Parliament approved the introduction of the system on 5 July 2018, and according to the EU Commission it is to be operational by 2021 (European Commission 2018f).

10 Nationals of Australia, Israel, Japan, Canada, New Zealand, the Republic of Korea and the United States of America can enter without a visa and apply for the required residence permit directly at the foreigners authority (Section 41 of the Ordinance governing Residence).

11 Intra-Corporate Transfer.

12 Electronic System for Travel Authorization.

## 2.3 EU visa policy towards the examined countries

### 2.3.1 Process of visa liberalisation

The European Commission is responsible for negotiating visa liberalisation with third countries. The granting of visa liberalisation is subject to the assessment of several criteria, including "illegal immigration, public policy and security, economic benefit, in particular in terms of tourism and foreign trade, and the Union's external relations with the relevant third countries, including, in particular, considerations of human rights and fundamental freedoms, as well as the implications of regional coherence reciprocity" (Article 1 of the Visa Regulation).

In addition to the agreement on visa liberalisation, the EU can also conclude agreements with third countries to facilitate the issuance of visas (European Commission 2018b). In the countries examined in this study, such agreements were concluded before the complete abolition of the visa requirement. These agreements include, for example, shorter standard processing times, lower fees for the issuance of visas or facilitations in proving the purpose of the trip (AA n.d.). They are linked to the conclusion of readmission agreements which regulate the procedure for the readmission of a country's own nationals and, under certain circumstances, third-country nationals residing irregularly in EU countries (European Commission 2018b).

The EU's visa policy is based on reciprocity - countries that benefit from a visa waiver for EU countries are expected to allow EU citizens to enter their countries without a visa (European Commission 2018b). To implement this objective, a reciprocity mechanism has been developed which regulates the procedure in cases where visa-free third countries impose a visa requirement on the nationals of an EU Member State (Article 1 (4) of the Visa Regulation; European Commission 2018b).

For some countries, the lifting of visa requirements for third countries is linked to the successful conclusion of visa liberalisation dialogues. This applied to all the countries under review in this study (EMN 2018a). In the case of the Western Balkan countries examined here, the dialogues were linked to "visa liberalisation roadmaps" and in the case of Georgia, Moldova and Ukraine to "visa liberalisation action plans" (EMN

2018a). In both cases, countries had to meet criteria in the following areas:

#### Document security

- Document security
- Border management
- Public order and safety
- Migration and asylum
- External relations and fundamental rights

During a dialogue, the European Commission monitors progress in these areas and publishes reports on it. If the criteria are met, the European Commission proposes to the Council and the European Parliament to add the third country concerned to the list of visa-free countries in the Visa Regulation. Once it has been adopted by the Council and Parliament, the visa waiver can finally enter into force. Even after entry into force, the European Commission will continue to monitor compliance with the visa waiver criteria (see Chapter 2.3.2).

Kosovar nationals cannot currently enter the EU without a visa. On 18 July 2018, the European Commission confirmed that in its view, Kosovo fulfilled all the conditions for granting visa-free travel set out in the Roadmap for Kosovo (European Commission 2018g). The Commission had already proposed the abolition of the visa requirement in May 2016, when two conditions were still outstanding.<sup>13</sup> Now that the EU Commission considered them to have been fulfilled, it has asked the Council and the European Parliament to agree to visa liberalisation (European Commission 2018g).

#### The visa waiver came into force for the third countries examined in this study on the following dates:

- FYR Macedonia, Montenegro and Serbia: 19 December 2009
- Albania, Bosnia and Herzegovina: 15 December 2010
- Moldova: 28 April 2014
- Georgia: 28 March 2017
- Ukraine: 11 June 2017

### 2.3.2 Suspension mechanism

The suspension mechanism for Schengen visas was introduced in 2013 (Article 1a of the Visa Regulation).<sup>14</sup> A revised version of the suspension mechanism entered into force on 28 March 2017 (BMI n.d.). The mechanism allows the visa requirement for visa-free third countries "to be reintroduced initially for certain categories of persons and provisionally in the event of a deterioration in the migration and/or security situation with regard to nationals of a visa-free third country" (BMI n.d.).

The revision was related to the granting of visa-free travel to Georgia and Ukraine – only after its adoption did the EU Council agree to the introduction of visa-free travel to Georgia (EU Council 2016; EMN/BAMF 2018: 41). As a result of the revision, the mechanism can now be triggered not only by the Member States but also by the European Commission (European Commission 2017a). The reasons for the trigger can be an increase of more than 50% in irregular migration (including refusals at borders) or in asylum applications with a low protection rate as well as reduced cooperation of third countries in relation to readmission and a significant increase in risks to public order or internal security (European Commission 2017a). In addition, the mechanism was "supplemented by a monitoring component to ensure continued compliance with the criteria for visa liberalisation" (BMI n.d.). Non-compliance with these criteria can also be a reason to suspend the visa exemption. Compliance is monitored by the European Commission, which will report to the European Parliament and the Council of the European Union at least once a year for seven years after visa liberalisation (European Commission 2017a).

On 20 December 2017, the European Commission published the first report for the visa-free Western Balkan countries, Moldova, Georgia and Ukraine (European Commission 2017b). The report states that all countries continue to meet the criteria for visa liberalisation. The report also identifies measures that should be taken in specific areas by the respective countries in order to continue to fulfil the criteria. Among other things, it recommends measures to combat irregular migration and to strengthen cooperation on return, to combat organised crime and corruption and to protect vulnerable population groups (European Commission 2017b).

<sup>13</sup> These were the conclusion of a border demarcation agreement with Montenegro and progress in the fight against organised crime and corruption.

<sup>14</sup> The information in this section is mainly based on EMN/BAMF. (2018: 41).

# 3 Migration to Germany from the examined countries

The lifting of the visa requirement for short stays has no effect on the legal requirements for long-term immigration to Germany. In order to determine whether and how migration processes change in the wake of visa liberalisation, various migration-related developments will be examined in the following Chapter. These include the number of immigrants moving to Germany, the number of Schengen visas and residence permits issued, and the development of asylum applications from the examined countries. In a second step, developments in the area of irregular migration will be examined.

As far as possible, the statistics presented are based on figures collected by Eurostat in order to facilitate EU-wide comparability. Where Eurostat figures are not available, statistics from national authorities are used.

In the tables in this Chapter, the year of visa liberalisation per country of origin is highlighted in **green**. Kosovo is highlighted in **grey** as visa liberalisation has not yet entered into force. Kosovo has been included in some graphs and tables for comparison purposes.

## 3.1 Immigration and long-term development of migration

### 3.1.1 Western Balkan countries

The countries of the former Yugoslavia share a decades-long migration history with Germany and other EU countries - both with the Federal Republic of Germany and with the former German Democratic Republic (GDR), even though migration to the GDR took place to a much lesser extent. In 1968, a recruitment agreement was concluded between the Federal Republic of Germany and Yugoslavia for migrant workers, as a result of which around half a million people temporarily entered the country in order to work (Parusel/Schneider 2012: 59; see also Alscher et al. 2015: 15 et seq.). After a recruitment stop was imposed in the Fed-

eral Republic of Germany in 1973, around a quarter of these labour migrants returned; "while since the end of the 1980s, immigration to Germany saw another increase" (Parusel/Schneider 2012: 59). In the context of the disintegration of Yugoslavia and the Balkan wars, flight migration from the Western Balkan countries to Germany and other European countries rose sharply from 1992 onwards (Alscher et al. 2015: 16). In comparison to the states of the former Yugoslavia, only a comparatively small number of people migrated from Albania to Germany until the visa liberalisation at the end of 2010 (cf. Alscher et al. 2015: 16).

The migration statistics of the Federal Statistical Office provide information on the number of new arrivals per year (Table 1). It is based on the official immigration and outward migration statistics of the registration authorities and therefore includes all new registrations in Germany after immigration from abroad. Tourist or other short stays are therefore not included. Since the statistics are case statistics rather than personal statistics, persons who enter and register several times within one year have also been recorded several times (BMI/BAMF 2016: 27).

Looking at the immigration figures in the years before visa liberalisation in 2009 and 2010, a decline in immigration can be observed for all Western Balkan countries (Table 1). From 2010 to 2015, there was a marked increase in immigration from the Western Balkan countries, with only a slight decrease in the case of Serbia, Bosnia and Herzegovina and the FYR of Macedonia in 2011 (Table 1 and Figure 1). The increase in the number of new arrivals is largely due to the increase in the number of new arrivals of persons seeking international protection (see Chapter 3.4.1). A similar development can be observed for Kosovo, although Kosovo nationals are not exempt from the visa requirement.

As of 31 December 2017, a total of 576,035 nationals of the Western Balkan countries surveyed in this study (excluding Kosovo) were staying in Germany (Statistisches Bundesamt 2018), according to the Central Register of Foreigners. Of these, about 26% had lived in Germany for less than four years; about 38% for



**Table 1: Immigration to Germany by nationality, Western Balkan countries, Georgia, Moldova and Ukraine (2007 to 2017)**

Nationality	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
FYR Macedonia	2,334	2,308	2,399	7,585	5,679	11,331	14,387	15,634	24,776	14,342	18,235
Montenegro	643	370	422	640	655	988	999	2,367	5,194	1,990	2,230
Serbia*	10,630	8,941	7,024	16,666	16,524	22,107	27,302	38,440	39,719	22,896	24,475
Albania	1,106	1,046	961	913	1,417	2,234	4,131	15,165	69,362	12,982	14,905
Bosnia and Herzegovina	6,403	6,154	6,145	6,920	9,533	12,235	15,083	20,659	21,737	22,393	23,980
Kosovo	-	2,615	6,168	6,928	7,160	9,024	13,071	23,435	44,081	15,071	18,255
Moldova	722	699	749	776	895	897	1,039	1,799	3,477	5,869	4,543
Georgia	1,615	1,693	2,239	2,377	2,339	3,466	4,481	5,604	6,472	5,006	5,786
Ukraine	7,551	6,869	6,947	6,870	7,585	8,198	8,342	13,477	15,778	13,303	13,107
Western Balkans total (excl. Kosovo)	21,116	18,819	16,951	32,724	33,808	48,895	61,902	92,265	160,788	74,603	83,825
Georgia, Moldova, Ukraine total	9,888	9,261	9,935	10,023	10,819	12,561	13,862	20,880	25,727	24,178	23,436
<b>Total (excl. Kosovo)</b>	<b>31,004</b>	<b>28,080</b>	<b>26,886</b>	<b>42,747</b>	<b>44,627</b>	<b>61,456</b>	<b>75,764</b>	<b>113,145</b>	<b>186,515</b>	<b>98,781</b>	<b>107,261</b>

\* incl. former Serbia and Montenegro, until 16 February 2008 with Kosovo.

Source: Federal Statistical Office.

less than 10 years.<sup>15</sup> The average length of stay ranged from 4.9 years (Albania) to 21.5 years (Serbia; Statistisches Bundesamt 2018).

### 3.1.2 Georgia, Moldova, Ukraine

Of Georgia, Moldova and Ukraine, Ukraine is the country with the highest number of immigrants to Germany (Table 1 and Figure 1). There was an increase in the number of Ukrainian nationals moving to Germany between the 1990s and 2002, but this declined again between 2003 and 2008 (BMI/BAMF 2016: 197). This is probably related to the fact that a considerable proportion of Ukrainian immigrants to Germany in the 1990s were ethnic German repatriates and Jewish immigrants for whom special admission procedures applied and continue to apply (cf. BMI/BAMF 2016: 99; 121).<sup>16</sup> From the beginning of the 2000s, this

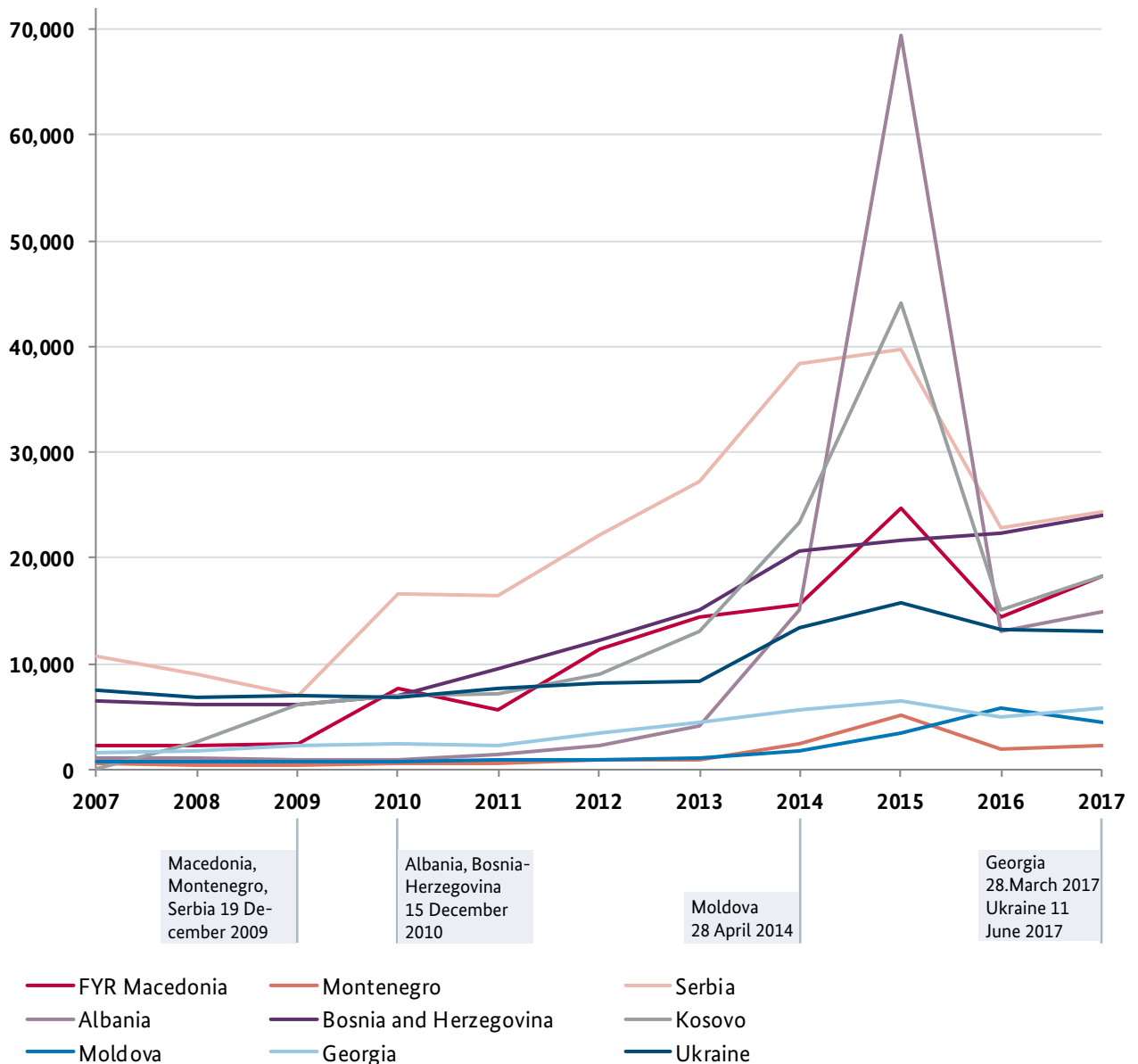
form of immigration to Germany decreased considerably (ibid.). From 2011 onwards and more noticeably in 2014 and 2015, the number of Ukrainian citizens moving to Germany increased again, and dropped again in 2016 and 2017 (Table 1). The increase in 2014 is due in part to a change in the law in 2013 which, upon application, also allows spouses and life partners as well as children of ethnic German repatriates to be admitted at a later date if they have at least a knowledge of German at A1 CEFR level. (Section 27 subs. 1 of the Federal Expellees Act (Bundesvertriebenengesetz (BVG)); EMNBAMF 2018: 37). As visa liberalisation for Ukraine has only been in effect since 11 June 2017, it is not yet possible to predict how things will develop. In the year of visa liberalisation, neither an increase nor a significant decrease were observed.

In the case of Georgia, there was a significant increase in new arrivals from 2012 onwards and a decrease again in 2016 (Table 1). In 2017, the year of visa liberalisation, the number of new arrivals increased, but to a

<sup>15</sup> The duration of residence "is calculated, without regard to interruptions of residence, as the difference between the date of retrieval of the data and the date of first entry into Germany or birth" (Statistisches Bundesamt 2018).

<sup>16</sup> With the recognition as an ethnic German repatriate, German nationality is automatically granted (cf. Section 7 of the Nation-

ality Act (Staatsangehörigkeitsgesetz (StAG)). These persons are therefore not included in the statistics used in this study, which differentiate according to the nationality of the countries under review.

**Figure 1: Immigration to Germany by nationality, Western Balkan countries, Georgia, Moldova and Ukraine (2007 to 2017)**

Source: Federal Statistical Office. Explanations see table 1.

much lesser extent than the annual increases observed between 2012 and 2015. In the case of Moldova, an increase can be observed from 2014 onwards, i.e. the year of visa liberalisation, until 2016 (Table 1). In 2017, the number of new arrivals fell again.

As of 31 December 2017, 138,045 Ukrainian nationals were living in Germany. On the same date, there were 24,685 Georgian and 17,245 Moldovan nationals residing in Germany (Statistisches Bundesamt 2018). The proportion of Ukrainian nationals who have immigrated less than four years ago is about 25 %, while about 41 % have immigrated less than 10 years ago. The average length of stay is 11.5 years (Statistisches Bundesamt 2018).

### 3.2 Schengen visas

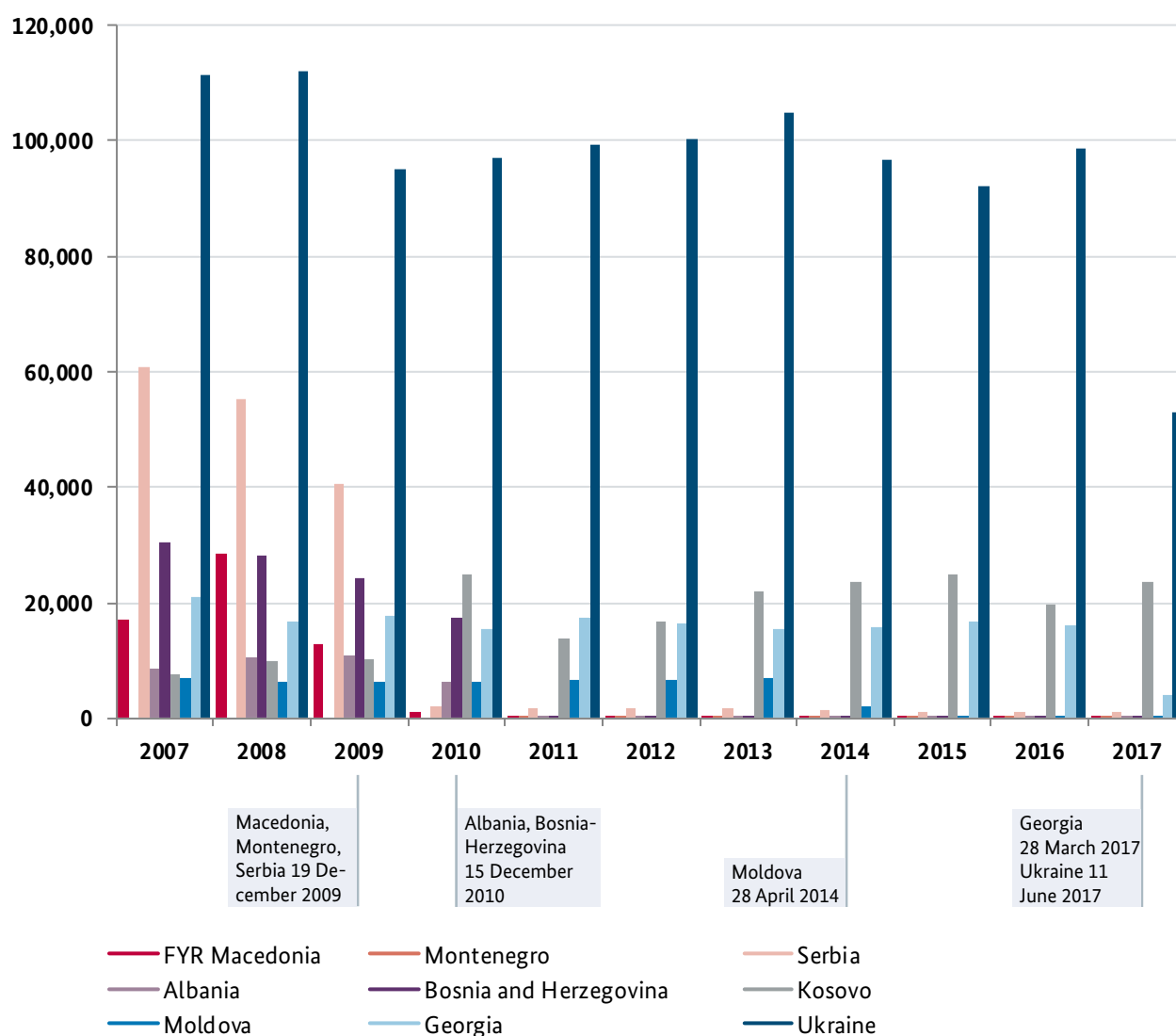
The following information on Schengen visas issued is based on the visa statistics of the Federal Foreign Office and the EU Commission. These statistics do not provide any information about the applicants' nationality, but only about the diplomatic mission or consulate where the visa was applied for. They therefore allow only limited conclusions about the number of nationals from a particular country of origin.<sup>17</sup>

<sup>17</sup> The United Kingdom, for example, was one of the 20 most important in terms of issued Schengen visas between 2011 and 2016, even though British nationals as EU nationals do not require a visa to enter Germany.

In the period under review (2007 to 2017), only Ukraine was consistently among the ten countries of origin in which most short-term visas were issued by German missions abroad. Georgia and Kosovo were among the 20 most important countries of origin in several years. The number of visas applied for and issued fell sharply in all the countries surveyed with the entry of visa-free travel; however, Schengen visas were still issued in all the countries under review (Figure 2 and Table 2). On the one hand, this is due to the fact that the diplomatic missions and consular posts also accept applications from persons of other nationalities (see above). On the other hand, this is because only persons with a biometric passport benefit from visa exemptions. Following the lifting of the visa requirement, only Serbia issued a significant number of

Schengen visas (Figure 2). The number of visas issued in Kosovo increased between 2011 and 2015. What is striking here is the high number of visas issued with limited territorial validity (LTV, Table 2). This is due to the fact that not all EU Member States recognise Kosovo as an independent state and Kosovar passports are therefore not accepted throughout the Schengen area. In this case, visas with limited territorial validity (LTV) can be issued either only for the territory of the issuing country or for all countries that accept the corresponding passports (see Chapter 2.2.2).

**Figure 2: Schengen visas issued by diplomatic missions or consular posts (2007 to 2017)**



Source: Council Visa Working Party (2007-2009), EU Commission (from 2010). Explanations see table 2.

Table 2: Schengen visas issued by diplomatic missions or consular posts (2007 to 2017))

State of processing	Visa	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Skopje (FYR Macedonia)	Total	17,106	28,601	12,901	1,242	103	35	31	61	62	67	168
	of which C visas	3,204	16,641	3,618	705	48	34	31	61	62	67	165
	of which LTV visas	13,902	11,960	9,283	537	55	1	0	0	0	0	3
Podgorica (Montenegro)*	Total	N/A	N/A	N/A	N/A	92	123	165	177	209	262	290
	of which C visas	N/A	N/A	N/A	N/A	88	120	165	176	206	253	252
	of which LTV visas	N/A	N/A	N/A	N/A	4	3	0	1	3	9	38
Belgrade (Serbia)	Total	60,820	55,157	40,548	1,967	1,811	1,820	1,829	1,561	1,110	1,026	1,149
	of which C visas	60,771	55,112	40,524	1,958	1,773	1,798	1,815	1,550	1,109	1,024	417
	of which LTV visas	49	45	24	9	38	22	14	11	1	2	732
Tirana (Albania)	Total	8,524	10,562	10,831	6,345	95	34	52	43	88	73	115
	of which C visas	8,518	10,557	10,815	6,329	85	32	50	43	85	66	107
	of which LTV visas	6	5	16	16	10	2	2	0	3	7	8
Sarajevo (Bosnia and Herzegovina)	Total	30,546	28,205	24,409	17,521	214	110	67	156	141	190	135
	of which C visas	30,487	28,125	24,383	17,503	212	101	67	152	140	189	132
	of which LTV visas	59	80	26	18	2	9	0	4	1	1	3
Pristina (Kosovo)**	Total	7,669	10,076	10,338	24,912	13,807	16,629	21,848	23,531	24,867	19,849	23,741
	of which C visas	7,653	8,684	1,925	13,283	1,281	1,636	219	171	187	165	168
	of which LTV visas	16	1,392	8,413	11,629	12,526	14,993	21,629	23,360	24,680	19,684	23,573
Chişinău (Moldova)	Total	6,916	6,229	6,248	6,425	6,654	6,517	6,833	1,996	379	280	210
	of which C visas	6,811	6,205	6,226	6,421	6,652	6,517	6,833	1,996	378	279	209
	of which LTV visas	105	24	22	4	2	0	0	0	1	1	1
Tbilisi (Georgia)	Total	20,879	16,927	17,892	15,460	17,368	16,595	15,601	15,796	16,674	16,042	4,073
	of which C visas	20,871	16,924	17,889	15,450	17,363	16,587	15,592	15,795	16,672	16,041	4,063
	of which LTV visas	8	3	17	10	5	8	9	1	2	1	10
Kiev (Ukraine)	Total	111,525	112,061	95,159	97,020	99,234	100,455	104,819	96,862	92,078	98,833	52,986
	of which C visas	111,459	111,994	95,074	96,982	99,198	100,390	104,800	96,807	92,035	98,775	52,877
	of which LTV visas	66	67	85	38	36	65	19	55	43	58	109
Western Balkans total (excl. Kosovo)	Total	116,996	122,525	88,689	27,075	2,315	2,122	2,144	1,998	1,610	1,618	1,857
	of which C visas	102,980	110,435	79,340	26,495	2,206	2,085	2,128	1,982	1,602	1,599	1,073
	of which LTV visas	14,016	12,090	9,349	580	109	37	16	16	8	19	784
Georgia, Moldova, Ukraine total	Total	139,320	135,217	119,299	118,905	123,256	123,567	127,253	114,654	109,131	115,155	57,269
	of which C visas	139,141	135,123	119,189	118,853	123,213	123,494	127,225	114,598	109,085	115,095	57,149
	of which LTV visas	179	94	124	52	43	73	28	56	46	60	120
Total (excl. Kosovo)	Total	256,316	257,742	207,988	145,980	125,571	125,689	129,397	116,652	110,741	116,773	59,126
	of which C visas	242,121	245,558	198,529	145,348	125,419	125,579	129,353	116,580	110,687	116,694	58,222
	of which LTV visas	14,195	12,184	9,473	632	152	110	44	72	54	79	904

\* No visa applications were processed in Montenegro up to and including 2010. Instead, the Representation of the Federal Republic of Germany in Belgrade was responsible for processing visa applications.

\*\* In 2007 and 2008, issuances in Pristina are listed in the Council statistics under "Serbia". For reasons of clarity and comparability, the figures are listed here under "Kosovo".

Source: Council Visa Working Party (2007-2009), EU Commission (from 2010).  
LTV = Visas with limited territorial validity. Transit visas (former A and B visas) are not considered.

### 3.3 Residence permits

Eurostat statistics on residence permits issued for the first time are suitable for demonstrating what purpose persons immigrate to Germany for. According to the Eurostat definition, residence permits are considered to have been issued for the first time if the previous residence permit expired more than six months previously or if no residence permit with a validity of more than three months has previously been issued.<sup>18</sup> The figures used here on the issuance of residence permits differ from the migration figures mainly in that the issue of the permit, and not the immigration to Germany, is the decisive criterion. First-time issuance and immigration do not necessarily take place in the same year. The figures relating to the number of residence permits granted may also be significantly lower because they do not include migrants who do not have a residence permit (such as a larger proportion of asylum seekers and persons whose removal has been suspended or other irregular residents). Refugees are only included in the statistics if they receive a residence permit (usually a residence permit for humanitarian reasons).

<sup>18</sup> The data provided to Eurostat by Germany only fulfill these criteria from 2012 onwards. Before that, only the “real” first time issuances were counted, i. e. cases in which no residence permit had been issued previously (Eurostat 2014).

In the years immediately following the respective visa liberalisation, the number of residence permits issued to nationals of the Western Balkan countries remained at roughly the same level or decreased (Table 3 and Figure 3). From 2012 onwards, there was a marked increase in the number of residence permits issued, but this is (also) due to the fact that the figures which Germany supplied to Eurostat did not meet the definition of first issue until 2012 (see above). From 2016, the number of residence permits rose sharply once again. This increase in 2016 and 2017 is mainly due to the increase in residence permits issued for the purpose of employment (Figure 4). This is probably related to the simplified legal labour migration channel for nationals from the Western Balkan countries introduced in 2015 (cf. Chapter 5.5).

The number of residence permits issued for training and study purposes also increased for all Western Balkan countries between 2012 and 2017, with Albanian, Bosnian and Macedonian nationals accounting for the most significant increase (Figure 4). Between 2012 and 2017, in the case of Kosovo and Serbia, the proportion of residence permits issued for other reasons decreased in relation to all residence permits issued. In the case of Albania, however, this proportion increased between 2012 and 2017 (Figure 4). Residence permits for other reasons mainly include residence permits on humanitarian grounds. Among those are asylum and international protection as well as other humanitarian grounds, for example cases of hardship or removal

**Table 3: Residence permits issued for the first time in Germany by nationality, Western Balkan countries, Moldova, Georgia and Ukraine (2008 to 2017)**

Nationality	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
FYR Macedonia	1,432	902	867	969	1,887	2,504	3,415	4,348	6,062	7,369
Montenegro	124	225	213	180	412	513	567	559	869	1,017
Serbia	3,109	4,881	3,327	2,709	7,806	7,898	8,337	7,745	10,263	13,728
Albania	461	443	366	349	836	1,267	1,723	2,110	4,045	6,110
Bosnia and Herzegovina	1,645	1,472	1,279	1,462	3,450	4,036	5,347	5,257	9,461	12,461
Kosovo	3,228	3,599	3,735	3,303	6,346	7,846	8,260	8,260	10,020	14,480
Moldova	376	364	376	326	431	465	556	971	1,050	1,500
Georgia	712	806	799	806	1,243	1,284	1,312	978	1,471	1,631
Ukraine	2,380	3,294	3,288	3,179	4,548	4,838	6,163	5,667	6,500	6,642
Western Balkans total (excl. Kosovo)	6,771	7,923	6,052	5,669	14,391	16,218	19,389	20,019	30,700	40,685
Georgia, Moldova, Ukraine total	3,468	4,464	4,463	4,311	6,222	6,587	8,031	7,616	9,021	9,773
<b>Total (excl. Kosovo)</b>	<b>10,239</b>	<b>12,387</b>	<b>10,515</b>	<b>9,980</b>	<b>20,613</b>	<b>22,805</b>	<b>27,420</b>	<b>27,635</b>	<b>39,721</b>	<b>50,458</b>

Source: Eurostat [migr\_resfirst].

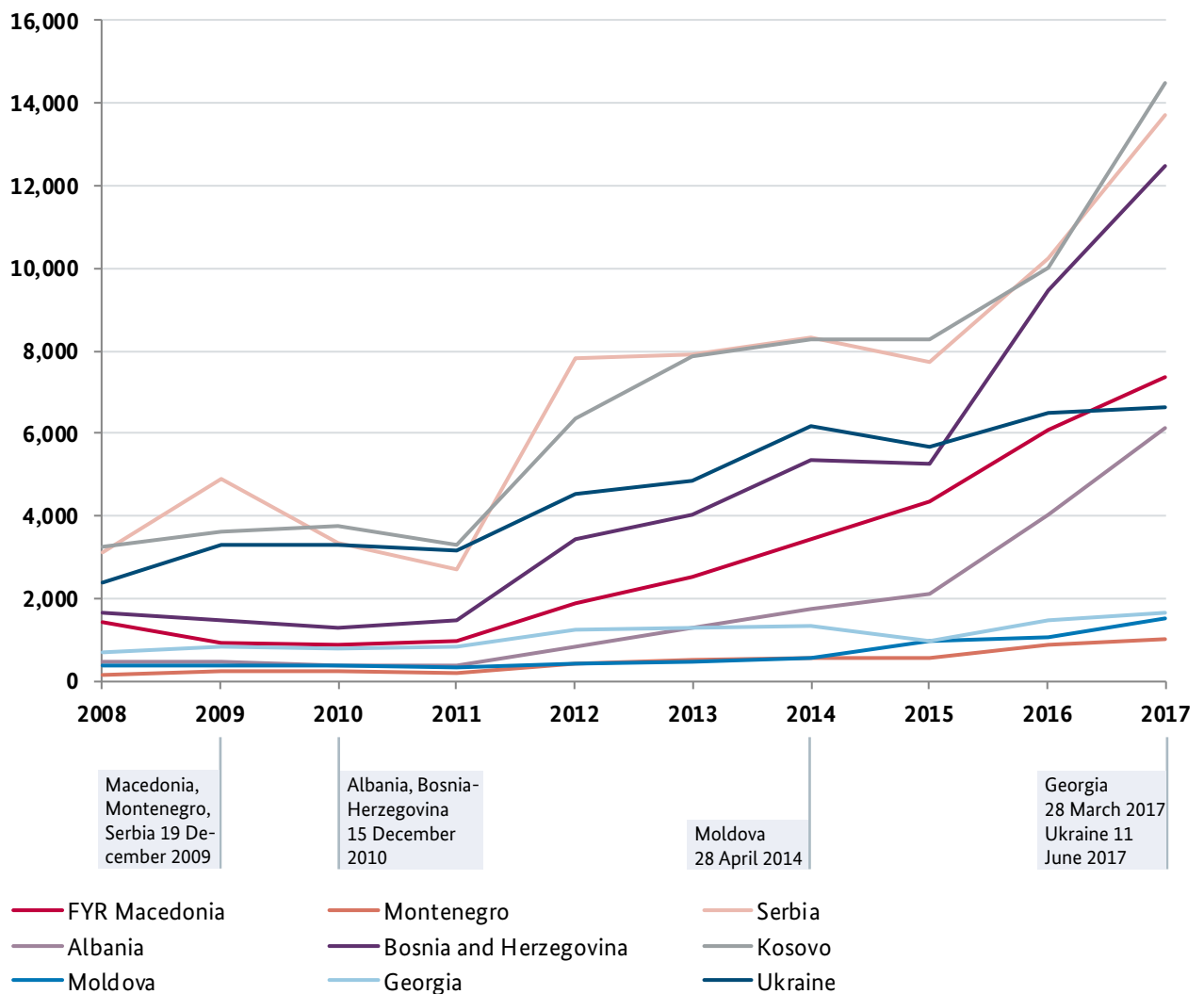
bans and obstacles to removal which lead to the issuance of a residence permit (for an overview see Hoffmeyer-Zlotnik 2017: 23 et seq).

Figure 3 shows that the number of residence permits issued to Kosovar nationals also increased from 2012 onwards, in a similar way to the other Western Balkan countries. As Kosovo is not exempt from the visa requirement, this may be an indication that the increase in longer-term migration to Germany is not linked to the liberalisation of short-term visas. Other factors, such as the introduction of the simplified legal labour migration channel for nationals of the Western Balkan countries, which also applies to Kosovar nationals, are having a more direct and stronger impact on longer-term migration.

The number of residence permits issued to nationals of Georgia, Moldova and Ukraine increased slightly in the years preceding visa liberalisation (Table 3 and

Figure 3). While in the case of Georgia the proportions of different residence purposes remained more or less the same between 2012 and 2017, a sharp pro rata increase was observed in residence permits issued for family reasons among Moldovan nationals (Figure 5). The same applies to Ukraine, albeit to a lesser extent. In the case of Ukrainian nationals, the proportion of residence permits issued for other reasons has also risen markedly. This includes not only residence permits issued for humanitarian reasons but also residence permits issued for Jewish immigrants (see Chapter 3.1.2).

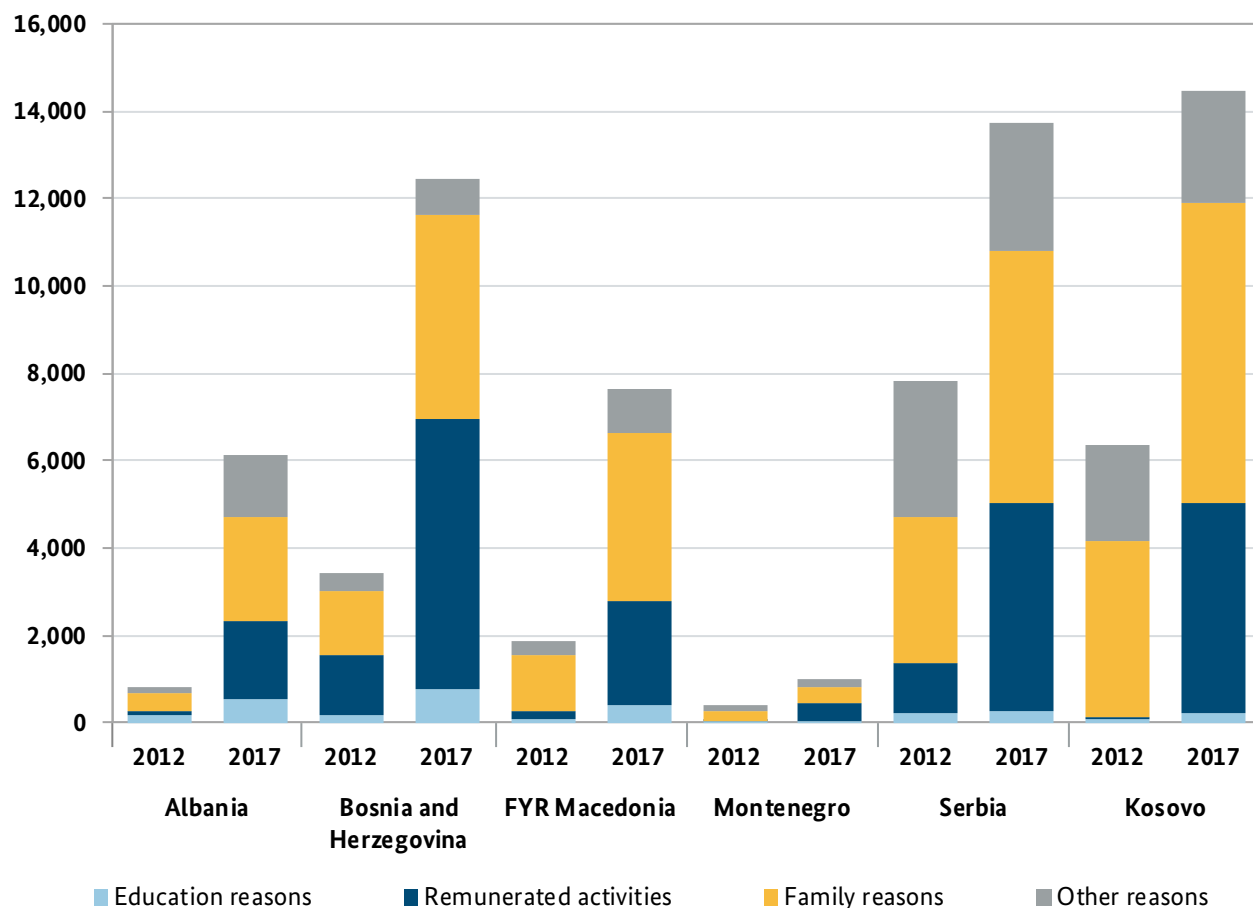
**Figure 3: Residence permits issued for the first time in Germany by nationality (2008 to 2017)**



Source: Eurostat [migr\_resfirst].

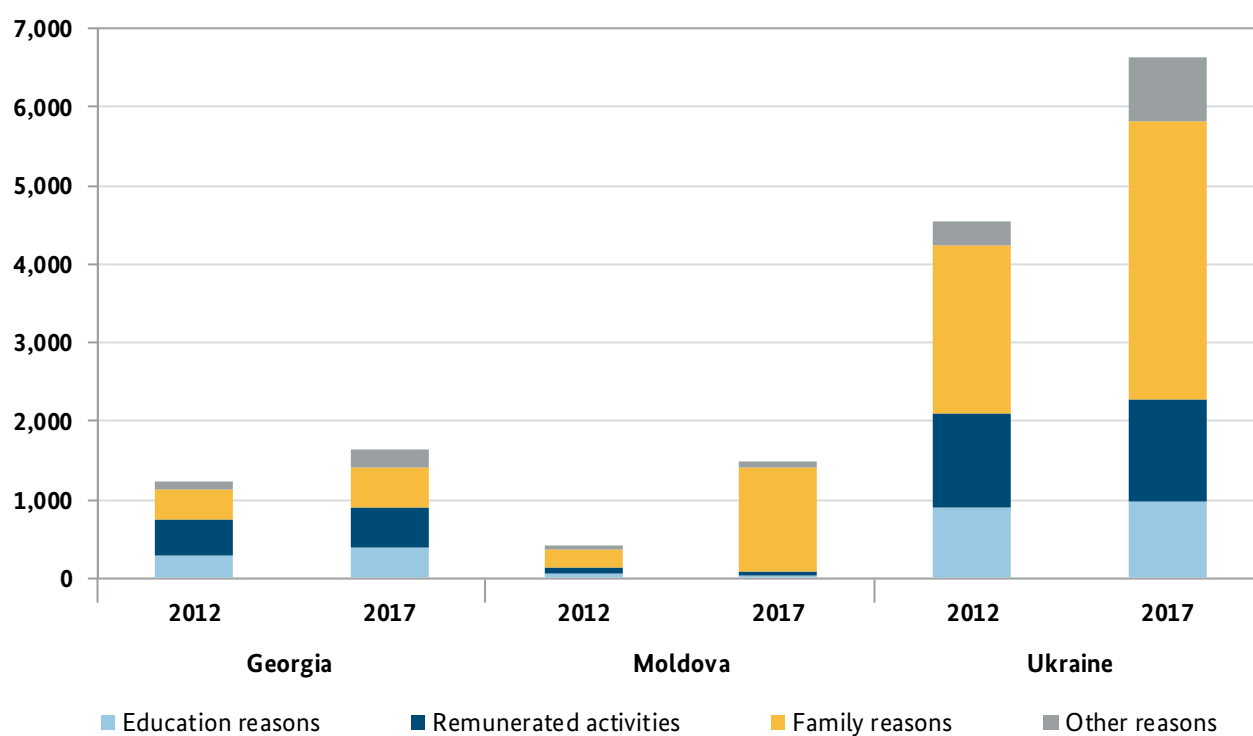


Figure 4: Residence permits issued for the first time by purpose, Western Balkans (2012 and 2017)



Source: Eurostat [migr\_resfirst].

Figure 5: Residence permits issued for the first time by purpose, Georgia, Moldova, Ukraine (2012 and 2017)



Source: Eurostat [migr\_resfirst].

## 3.4 Applications for asylum

In the public and political discussion on visa liberalisation, it is often assumed that there is a connection between visa exemption and asylum application figures, since the former also facilitates entry for persons who subsequently file an asylum application in Germany. As with the other indicators, no causal link can be established in the following between visa liberalisation and the number of asylum applications. It is described how the number of asylum applications developed between 2007 and 2017 and after the respective visa liberalisations and what reasons were given by various actors for these developments.

### 3.4.1 Western Balkan countries

Following the introduction of visa-free travel at the end of 2009, the number of asylum applications from nationals of Serbia and FYR Macedonia rose significantly in 2010 (Table 4). In a study conducted by the EMN in 2012, this was attributed to visa liberalisation (Parusel/Schneider 2012: 60; 64; cf. also EASO 2012: 25). An analysis conducted by the European Asylum Support Office (EASO) identified mainly structural factors such as the duration of asylum procedures and the social benefits granted during these procedures as reasons for asylum migration (EASO 2013: 10). In 2011, in view of the increased number of asylum applications filed by Serbian nationals in the EU, the Serbian government took "measures to limit the abuse of visa liberalisation and to safeguard the achieved freedom to travel", including monitoring, combating document fraud, intensifying border controls, media campaigns and "efforts for improving the situation of the minorities" (Parusel/Schneider 2012: 64). In Germany, the REAG/GARP return assistance for the visa-free Western Balkan countries was limited to travel costs in 2010; travel or start-up assistance has not been granted since then (EMN/BAMF 2011: 41).

While the number of first-time applications from nationals of FYR Macedonia fell in 2011 and only increased slightly in the case of Serbia, there was a marked increase once again in 2012 (Table 4). One of the reasons given for this is a judgment handed down by the Federal Constitutional Court in July 2012, which classified the amount of cash benefits for asylum seekers as "evidently insufficient".<sup>19</sup>

"Since the number of asylum applications filed in Germany by Western Balkan countries rose sharply in September and October 2012 compared to the same period of the previous year [...], the Federal Government and the national associations of local authorities argued that the expectation of higher cash benefits as a result of the judgment handed down by the Federal Constitutional Court was responsible for this particular increase in asylum applications" (Alscher et al. 2015: 24). Another reason could have been an avoidance effect due to developments in Germany's neighbouring countries: In Switzerland, a faster asylum procedure, the so-called "48-hour procedure" (ESI 2013: 14), was introduced in August 2012 in response to increased numbers of asylum applications from Western Balkan countries. This shortened not only the duration of the processing, but also the period for voluntary return and the duration of legal proceedings in the wake of a negative decision. As a result, the number of asylum seekers from the Western Balkan countries in Switzerland fell significantly as early as September 2012 - at the same time it rose particularly sharply in Germany in September and October 2012. In 2013, the share of asylum applications filed in Germany to all applications in the EU and Schengen area also rose sharply - from 48% in 2012 to almost 70% of all asylum applications filed in 2013 (Frontex 2014: 34).

The number of asylum applications from Western Balkan countries varied seasonally especially in 2012 and 2013; the highest number of applications was frequently registered in October (cf. EASO 2015: 8). This is explained, among other things, by the fact that the Länder responsible for returns sometimes imposed so-called moratoria on removals during winter. According to an analysis conducted by Frontex based on a survey of German authorities, this led to an increase in the number of asylum applications filed in Germany at the beginning of each winter (Frontex 2014: 37). In 2014 and 2015, the number of asylum seekers from all Western Balkan countries in Germany rose sharply once again (Figure 6). The increase was particularly marked in the case of Albania and Kosovo, where Kosovar citizens do not enjoy visa-free status in the Schengen area. In contrast to the applications from the other Western Balkan countries, the increase in applications from Kosovo was more sudden and less seasonal; the applications concentrated on the 4th quarter of 2014 and the 1st quarter of 2015.

19 BVerfG, decision of 18 July 2012 – 1 BvL 10/10; 1 BvL 2/11.

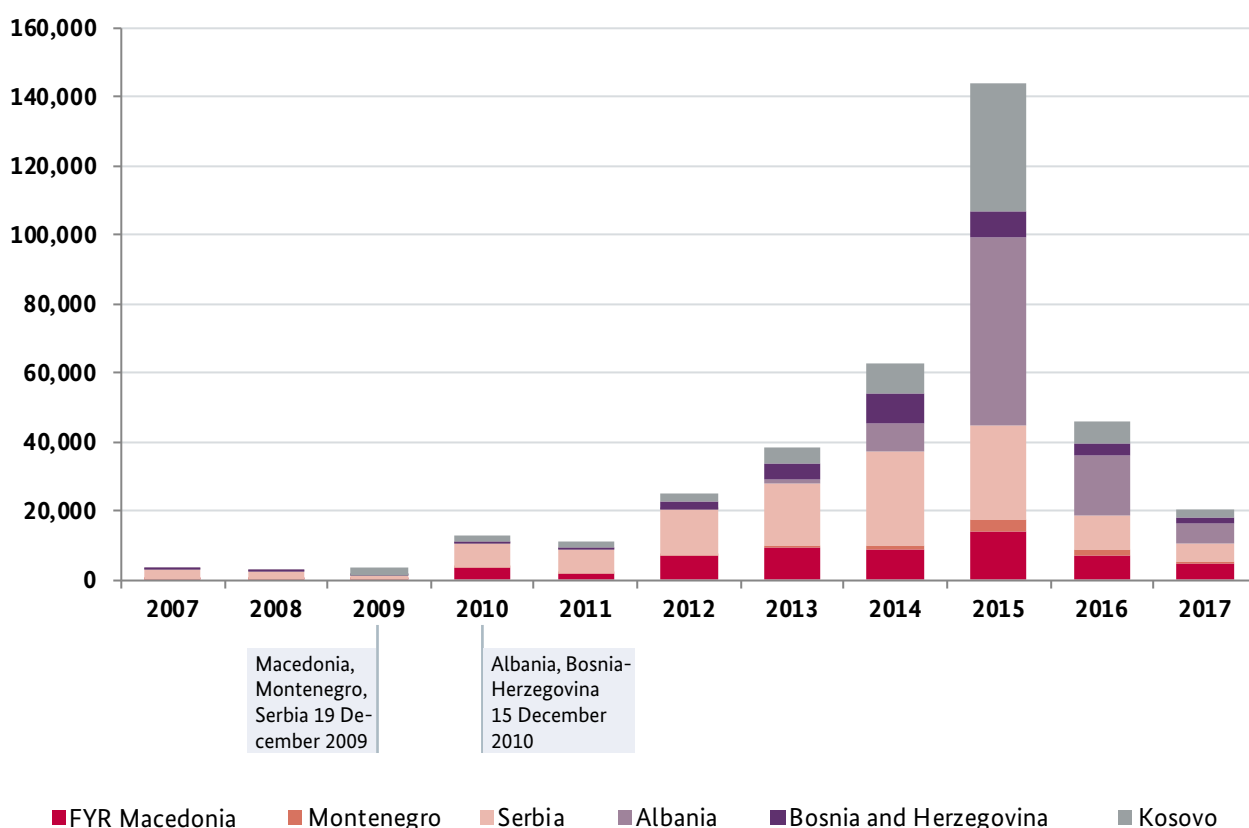
**Table 4: First-time and subsequent asylum applications, Western Balkans, Georgia, Moldova and Ukraine (2007 to 2018)**

Nationality		2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018 (1. 6 months)
FYR Macedonia	<b>Total</b>	<b>148</b>	<b>135</b>	<b>158</b>	<b>3,545</b>	<b>1,755</b>	<b>6,890</b>	<b>9,417</b>	<b>8,905</b>	<b>14,131</b>	<b>7,010</b>	<b>4,758</b>	<b>1,172</b>
	First-time applications	89	80	109	2,465	1,130	4,545	6,208	5,615	9,083	4,835	2,464	621
	Subsequent applications	59	55	49	1,080	625	2,345	3,209	3,290	5,048	2,175	2,294	551
Montenegro	<b>Total</b>	<b>87</b>	<b>55</b>	<b>97</b>	<b>95</b>	<b>125</b>	<b>395</b>	<b>379</b>	<b>1,270</b>	<b>3,635</b>	<b>1,627</b>	<b>730</b>	<b>182</b>
	First-time applications	61	35	57	60	80	290	258	935	3,233	1,381	341	83
	Subsequent applications	26	20	40	35	45	105	121	335	402	246	389	99
Serbia*	<b>Total</b>	<b>2,907</b>	<b>2,250</b>	<b>891</b>	<b>6,795</b>	<b>6,990</b>	<b>12,810</b>	<b>18,000</b>	<b>27,145</b>	<b>26,944</b>	<b>10,259</b>	<b>4,913</b>	<b>1,312</b>
	First-time applications	1,996	1,510	581	4,980	4,580	8,475	11,459	17,170	16,700	6,399	2,332	535
	Subsequent applications	911	740	310	1,815	2,410	4,335	6,541	9,975	10,244	3,860	2,581	777
Albania	<b>Total</b>	<b>95</b>	<b>75</b>	<b>55</b>	<b>45</b>	<b>85</b>	<b>250</b>	<b>1,294</b>	<b>8,110</b>	<b>54,760</b>	<b>17,231</b>	<b>6,088</b>	<b>1,311</b>
	First-time applications	70	60	49	40	80	230	1,247	7,865	53,805	14,853	3,773	838
	Subsequent applications	25	15	6	5	5	20	47	245	955	2,378	2,315	473
Bosnia and Herzegovina	<b>Total</b>	<b>187</b>	<b>215</b>	<b>252</b>	<b>355</b>	<b>405</b>	<b>2,370</b>	<b>4,846</b>	<b>8,475</b>	<b>7,473</b>	<b>3,106</b>	<b>1,436</b>	<b>477</b>
	First-time applications	109	125	171	300	305	2,025	3,323	5,705	4,634	1,914	704	241
	Subsequent applications	78	90	81	55	100	345	1,523	2,770	2,839	1,192	732	236
Kosovo	<b>Total</b>	<b>N/A</b>	<b>N/A</b>	<b>1,902</b>	<b>2,205</b>	<b>1,885</b>	<b>2,535</b>	<b>4,423</b>	<b>8,920</b>	<b>37,093</b>	<b>6,483</b>	<b>2,402</b>	<b>624</b>
	First-time applications	N/A	N/A	1,400	1,615	1,395	1,905	3,394	6,910	33,427	4,977	1,300	227
	Subsequent applications	N/A	N/A	502	590	490	630	1,029	2,010	3,666	1,506	1,102	397
Moldova	<b>Total</b>	<b>33</b>	<b>20</b>	<b>39</b>	<b>45</b>	<b>25</b>	<b>35</b>	<b>72</b>	<b>270</b>	<b>1,567</b>	<b>3,407</b>	<b>1,058</b>	<b>1,129</b>
	First-time applications	22	15	36	40	20	30	68	255	1,561	3,346	889	798
	Subsequent applications	11	5	3	5	5	5	4	15	6	61	169	331
Georgia	<b>Total</b>	<b>231</b>	<b>285</b>	<b>638</b>	<b>750</b>	<b>525</b>	<b>1,430</b>	<b>2,485</b>	<b>3,180</b>	<b>3,196</b>	<b>3,770</b>	<b>3,459</b>	<b>2,639</b>
	First-time applications	181	235	560	665	470	1,300	2,336	2,875	2,782	3,448	3,081	2,390
	Subsequent applications	50	50	78	85	55	130	149	305	414	322	378	249
Ukraine	<b>Total</b>	<b>80</b>	<b>45</b>	<b>85</b>	<b>70</b>	<b>55</b>	<b>135</b>	<b>152</b>	<b>2,705</b>	<b>4,658</b>	<b>2,492</b>	<b>1,327</b>	<b>628</b>
	First-time applications	62	35	66	60	45	125	141	2,655	4,569	2,389	1,088	501
	Subsequent applications	18	10	19	10	10	10	11	50	89	103	239	127
Western Balkans total (excl. Kosovo)	<b>Total</b>	<b>3,424</b>	<b>2,730</b>	<b>1,453</b>	<b>10,835</b>	<b>9,360</b>	<b>22,715</b>	<b>33,936</b>	<b>53,905</b>	<b>106,943</b>	<b>39,233</b>	<b>17,925</b>	<b>4,454</b>
	First-time applications	2,325	1,810	967	7,845	6,175	15,565	22,495	37,290	87,455	29,382	9,614	2,318
	Subsequent applications	1,099	920	486	2,990	3,185	7,150	11,441	16,615	19,488	9,851	8,311	2,136
Georgia, Moldova, Ukraine total	<b>Total</b>	<b>344</b>	<b>350</b>	<b>762</b>	<b>865</b>	<b>605</b>	<b>1,600</b>	<b>2,709</b>	<b>6,155</b>	<b>9,421</b>	<b>9,669</b>	<b>5,844</b>	<b>4,396</b>
	First-time applications	265	285	662	765	535	1,455	2,545	5,785	8,912	9,183	5,058	3,689
	Subsequent applications	79	65	100	100	70	145	164	370	509	486	786	707
Total (excl. Kosovo)	<b>Total</b>	<b>3,768</b>	<b>3,080</b>	<b>2,215</b>	<b>11,700</b>	<b>9,965</b>	<b>24,315</b>	<b>36,645</b>	<b>60,060</b>	<b>116,364</b>	<b>48,902</b>	<b>23,769</b>	<b>8,850</b>
	First-time applications	2,590	2,095	1,629	8,610	6,710	17,020	25,040	43,075	96,367	38,565	14,672	6,007
	Subsequent applications	1,178	985	586	3,090	3,255	7,295	11,605	16,985	19,997	10,337	9,097	2,843
Total - all nationalities	<b>Total</b>	<b>30,303</b>	<b>26,845</b>	<b>32,910</b>	<b>48,475</b>	<b>53,235</b>	<b>77,485</b>	<b>126,705</b>	<b>202,645</b>	<b>476,510</b>	<b>745,155</b>	<b>222,560</b>	<b>78,978</b>
	First-time applications	19,164	21,325	27,573	41,245	45,680	64,410	109,376	172,945	441,800	722,264	198,253	68,093
	Subsequent applications	11,139	5,520	5,337	7,230	7,555	13,075	17,329	29,700	34,710	22,891	24,307	10,885

Source: Eurostat and Federal Office for Migration and Refugees (for 2007).

Figures from Eurostat are primarily used to ensure EU-wide comparability. Only for 2007 are the figures from the Federal Office for Migration and Refugees statistics used, as Eurostat only records first-time and subsequent applications separately from 2008 onwards. The Eurostat statistics on asylum applications differ from those published by the Federal Office for Migration and Refugees, partly because Eurostat figures are rounded in a few years (to five persons; see also BAMF (n.d.)).

\* incl. former Serbia and Montenegro. 2008: incl. Kosovo.

**Figure 6: First-time and subsequent asylum applications, Western Balkan countries (2007 to 2017)**

Source: Eurostat and Federal Office for Migration and Refugees (for 2007). Explanations see table 4.

While Member State actors in 2013 identified the comparatively long duration of the asylum procedure as an important "pull factor" for asylum immigration from the Western Balkans to Germany (EASO 2013: 50), this only played a minor role in 2015 (EASO 2015: 23 et seq). According to EASO, important pull factors in the years 2014 and 2015 were above all access to healthcare and social services; in the case of Kosovo also the existence of a larger diaspora in Germany (EASO 2015: 24; cf. also Mappes-Niediek 2015).

The change in the pull factors identified can be seen in connection with the measures taken in particular since 2014 to control and limit asylum immigration from the Western Balkan countries. These include the classification of the Western Balkan countries as safe countries of origin, the exclusion from integration measures and from the labour market and longer accommodation in initial reception facilities (see Chapter 5.3). EASO identified the labour market situation in the Western Balkan countries and social problems, especially the situation of minorities, as "push factors" both in 2013 and 2015 (EASO 2015: 21).

The overall protection rate<sup>20</sup> of decisions on asylum applications by Western Balkan nationals is low (Table 5), but varies considerably across the EU: while Germany has one of the lowest total protection rates, the protection rate in Italy was 45% in 2013 and 2014; some other EU countries had protection rates of above 8% (EASO 2015: 16).

### 3.4.2 Georgia, Moldova and Ukraine

The number of asylum applications filed by nationals of Georgia, Moldova and Ukraine is significantly lower than those from the Western Balkans (Table 4). In the case of Georgia, there was a significant increase in asylum applications in Germany in 2012; in the case of Ukraine and Moldova from 2014 onwards. In the case of Moldova, there was a sharp rise in asylum applications filed in the year of visa liberalisation. In the case of Georgia and Ukraine, the number of applications for

<sup>20</sup> The "overall protection rate" refers to the number of asylum recognitions, refugee recognitions, subsidiary protection and cases of prohibition of removal in relation to the total number of decisions taken (including formal decisions) in the period concerned (BAMF 2018: 36).

**Table 5: Number of decisions and overall protection rates, Western Balkans, Georgia, Moldova and Ukraine (2007 to 2017)**

		FYR Macedonia	Montenegro	Serbia*	Albania	Bosnia and Herzegovina	Kosovo	Georgia	Moldova	Ukraine	Western Balkans total (excl. Kosovo)	Georgia, Moldova, Ukraine total	All countries
2008	Total protection quota	0.9%	0.0%	2.2%	15.2%	5.0%	2.4%	2.1%	0.0%	12.5%	4.7%	6.3%	37.7%
	Decisions	108	43	937	66	139	780	194	26	48	1,293	268	20,817
2009	Total protection quota	4.0%	6.3%	1.6%	10.6%	5.6%	4.7%	2.6%	5.3%	7.1%	5.6%	5.0%	33.8%
	Decisions	100	95	809	66	231	1,604	428	19	56	1,301	503	28,816
2010	Total protection quota	0.2%	0.0%	0.6%	9.3%	2.5%	3.5%	1.2%	0.0%	6.6%	2.5%	2.6%	21.6%
	Decisions	2,925	119	5,245	43	354	2,510	948	65	61	8,686	1,074	48,187
2011	Total protection quota	0.3%	1.0%	0.4%	16.9%	3.3%	2.5%	2.1%	4.5%	21.1%	4.4%	9.2%	22.3%
	Decisions	1,965	104	6,844	77	3,931	2,055	430	22	71	12,921	523	43,362
2012	Total protection quota	0.2%	1.6%	0.2%	9.8%	1.1%	2.0%	1.1%	0.0%	4.5%	2.6%	1.9%	27.7%
	Decisions	6,639	365	13,807	133	2,131	2,768	663	251	44	23,075	958	61,826
2013	Total protection quota	0.3%	2.3%	0.2%	7.0%	0.5%	1.2%	0.4%	6.2%	5.3%	2.1%	4.0%	24.9%
	Decisions	6,400	298	12,229	517	3,339	3,011	1,573	32	57	22,783	1,662	80,978
2014	Total protection quota	0.3%	0.0%	0.2%	2.2%	0.3%	1.1%	0.5%	11.8%	5.5%	0.3%	5.9%	31.5%
	Decisions	8,548	868	21,878	3,455	6,594	3,690	2,510	34	345	41,343	2,889	128,911
2015	Total protection quota	0.5%	0.3%	0.1%	0.2%	0.2%	0.4%	0.3%	6.8%	5.4%	0.5%	4.2%	49.8%
	Decisions	8,245	2,297	22,341	35,721	6,500	29,801	2,360	44	1,008	75,104	3,412	282,726
2016	Total protection quota	0.3%	0.5%	0.3%	0.4%	0.7%	0.8%	1.8%	0.5%	1.5%	0.3%	1.3%	62.4%
	Decisions	14,712	3,219	24,178	37,673	6,885	18,920	4,057	4,797	4,040	86,667	12,894	695,733
2017	Total protection quota	0.8%	0.9%	0.6%	1.4%	1.5%	2.3%	2.1%	2.0%	5.2%	1.0%	3.1%	43.4%
	Decisions	7,023	1,045	7,867	9,847	2,265	5,001	6,340	1,360	5,792	28,047	13,492	603,428

Source: Grote 2018: 19; Federal Office for Migration and Refugees.

\* 2008 and 2009: incl. former Serbia and Montenegro.

asylum declined in the year of visa liberalisation (2017). For the first half of 2018, however, an increase can be seen in the case of Georgia, with 2,710 first-time and subsequent applications filed in the first half of the year and 3,460 during the whole of 2017 (Table 4). In the case of Moldova, more asylum applications were already filed in the first half of 2018 than in 2017 as a whole.

The reasons given by the Federal Police for the increase in asylum immigration from Georgia are the poor economic development in the country and the use of stays in Germany during the asylum procedure to receive medical care. At the same time, the Federal Police repeatedly identify asylum seekers from Georgia during exit checks who are leaving Germany while the asylum procedure is still in progress. According to the Federal Police, this indicates that obtaining protection under asylum law was not the actual motive for entry. Furthermore, according to the findings of the Federal Criminal Police Office, Georgian asylum seekers also include persons who use their legal residence through the asylum procedure to pursue "criminal activities" - however, this was also the case in the years prior to visa liberalisation. (Stoldt 2018).

While the overall protection rate for Georgia, Moldova and Ukraine is comparatively low overall, it also varies from country to country (Table 5). For Geor-

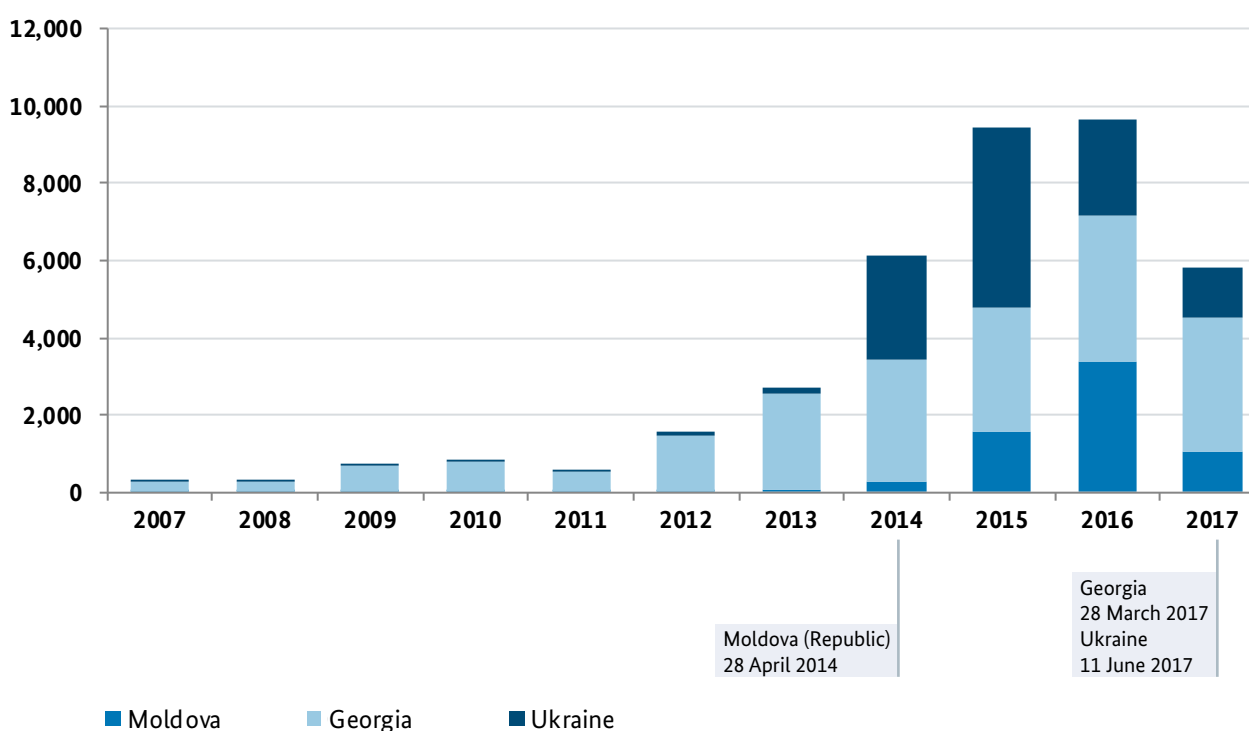
gian nationals it was 2.1% in 2008 and 2017, 0.5% and 0.3% respectively in 2014 and 2015.%. The protection rate for Moldovan applicants was 0.0% in 2008 and 2012. In 2014 and 2015 it increased significantly (2014: 11.8%; 2015: 6.8%), but very few decisions were taken in these years.<sup>21</sup> In 2017, the total protection rate was 2.0%. In the case of Ukraine, the protection rate was 12.5% in 2008 (but only 48 decisions were taken). Between 2012 and 2017, the total protection rate was around 5% annually (2012: 4.5%; 2017: 5.2%).

### 3.5 Irregular migration and human smuggling

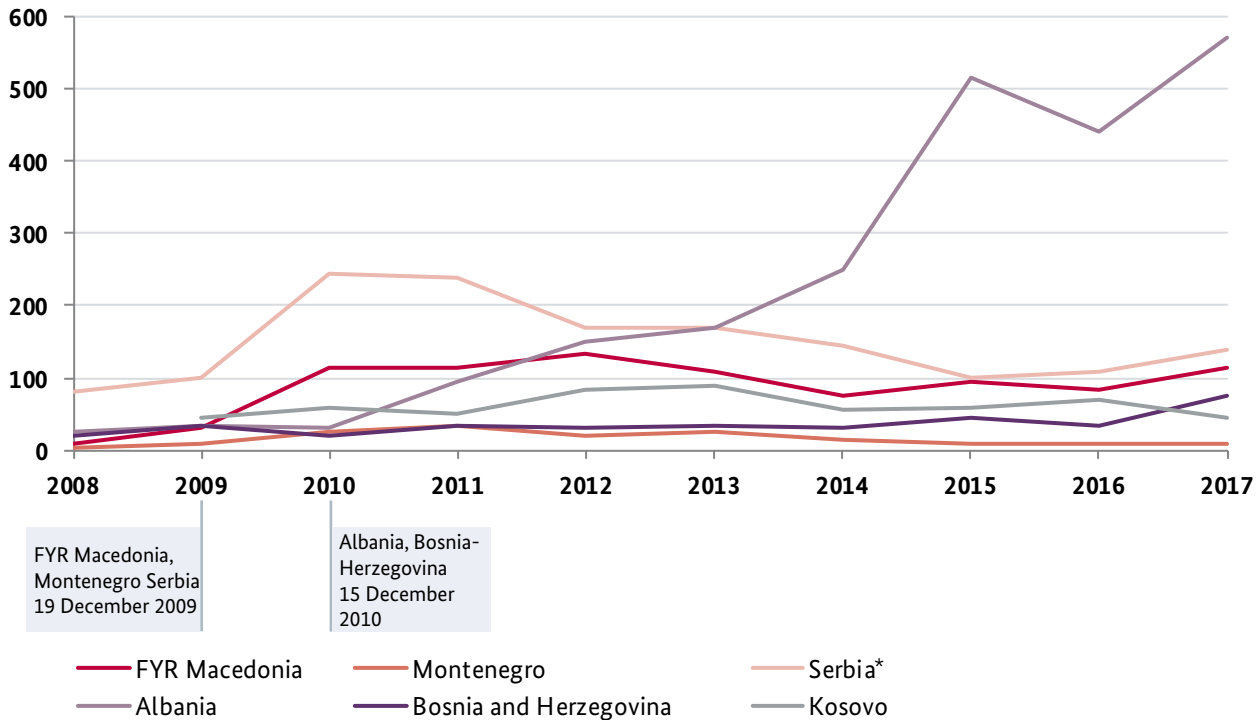
In the following, some key figures will be presented on irregular migration from the countries examined to Germany. On the one hand, it must be noted that the available statistics allow only limited conclusions to be drawn about the actual extent of irregular migration (Alscher et al. 2015: 27; Grote 2015: 15 et seq.). On the other hand, the statistics considered here do not allow for any conclusion regarding a causal connection with the introduction of the respective visa waiver.

<sup>21</sup> 2014: 34 decisions; 2015: 44 decisions.

**Figure 7: First-time and subsequent asylum applications, Georgia, Moldova, Ukraine (2007 to 2017)**



Source: Eurostat and Federal office for Migration and Refugees.

**Figure 8: Refusal of entry at Germany's EU external borders (air borders), Western Balkan countries (2008 bis 2017)**

Source: Eurostat [migr\_eirfs].

\* incl. former Serbia and Montenegro as well as Serbia before 17 February 2008.

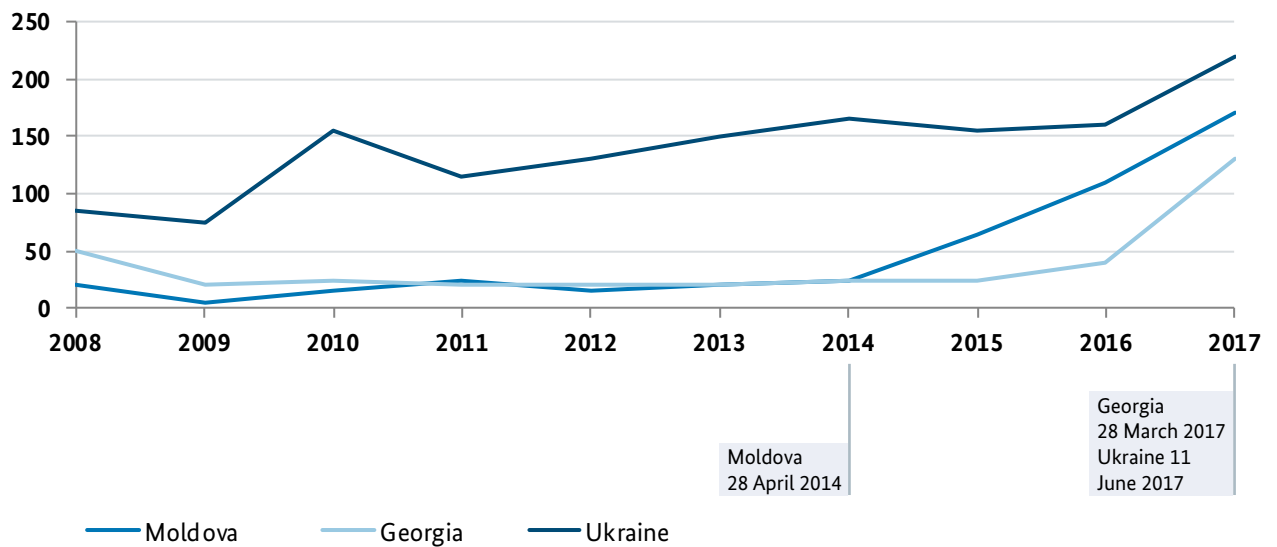
### 3.5.1 Refusal of entry at the border

Figure 8 shows the number of refusals of entry from outside the Schengen area at airports for the nationalities of the Western Balkan states under review on the basis of Eurostat.<sup>22</sup> Reasons for refusal may be, for example, the lack of the necessary travel documents, visas or other residence permits in cases where those are required for entry and stay. Also the lack of proof of sufficient means of subsistence or other conditions for the visa-free stay, or the existence of an entry ban, e.g. after removal, can result in a refusal of entry (cf. Deutscher Bundestag 2018a: 30). Indications that the actual purpose of entry does not correspond to the stated or legally intended purpose may also form the basis for refusal of entry. Refusals of entry at air borders occur on the whole a lot less than refusals of entry at the land borders of the Schengen area.

For the visa-free Western Balkan countries, there was an increase in refusals of entry at airports in the year following visa liberalisation (Figure 8). In the Western Balkan countries, a downward trend in refusals of entry can be observed from 2011 and 2012 onwards - except in the case of Albania, where the number of refusals increased significantly, particularly in 2014 and 2015. Following a decline in 2016, the number rose again in 2017.

Refusals of entry for Moldovan nationals also increased in the year after visa liberalisation in 2014 and continued to increase until 2017 (Figure 9). In the case of Georgia and Ukraine, there was also an increase in the year of visa liberalisation (2017). At the same time, the figures for Ukraine had already been rising significantly from 2009 onwards, i.e. prior to visa liberalisation. As these developments show, the visa waiver does not necessarily reduce the number of refused entries.

<sup>22</sup> The reason for the restriction to air borders is that Germany's land borders are not external borders of the Schengen area. Refusals of entry at sea borders are not taken into account due to the very small number of cases involved. The figures available at Eurostat differ from the statistics on refusals of entry published in the regular Bundestag publications on removals and departures (see, for example Deutscher Bundestag 2018a). This is probably due to the fact that only EU external borders are taken into account in Eurostat, and thus refusals of entry within the framework of border controls at Schengen internal borders do not appear in Eurostat data.

**Figure 9: Refusal of entry at Germany's EU external borders (air borders), Georgia, Moldova, Ukraine (2008 to 2017)**

Source: Eurostat [migr\_eirfs].

### 3.5.2 Unauthorised entries

Figure 10 shows the number of persons from the Western Balkan countries suspected of unauthorised entry who were registered in police statistics. These include both persons who entered the country without a valid residence permit or passport (Section 95 subs. 1 no. 3 of the Residence Act) and persons entering Germany despite an existing ban on entry and residence (Section 95 subs. 2 no. 1 lit. a of the Residence Act). The figures are taken from the Police Crime Statistics (PCS) that include all cases which the police authorities of the Federal Government and the Länder forward to the responsible public prosecutor's office after completing their own investigations. On the one hand, this means that the statistics only show the cases that come to police attention - the number of unauthorised entries detected thus increases the more police checks are carried out, especially at the borders. On the other hand, when several offences are committed at the same time, the PCS only record the offence which implies the most severe penalty. As the figures relate to the recorded suspects, the total number of suspects is therefore also lower than the total number of unauthorised entries recorded in the PCS (cf. BKA/BPOL: 4). Thirdly, "the timeliness of the PCS is influenced by crimes with a long investigation period" (BKA/BPOLP 2017: 4): Since the crimes are only recorded at the end of the police investigation, the statistics may also include crimes committed the previous year. It should also be noted that investigations into unauthorised entry are commenced in all detected cases and are then forwarded to the public prosecu-

tor's office, if necessary. In the case of asylum seekers in particular, however, these proceedings are often discontinued because of low guilt or owing to the prohibition of punishment under the Geneva Refugee Convention (cf. Article 31 (1) of the Geneva Refugee Convention<sup>23</sup>; see also Eckl 2017).

The number of detected unauthorised entries by persons from the Western Balkan countries decreased significantly in the year of visa liberalisation. However, the visa waiver did not come into force until the end of the year.<sup>24</sup> In the year following liberalisation, there was a slight increase in some cases, although the number of unauthorised entries detected for FYR Macedonia and Serbia has remained well below the number of unauthorised entries prior to the introduction of visa-free travel. In the case of Serbia, however, it should also be noted that in 2007 and 2008, the figures also include persons who have been nationals of Kosovo since 17 February 2008. The very sharp rise in suspected cases among Kosovar and Albanian nationals in 2015 is particularly striking. This development corresponds roughly to the development in asylum applications (cf. Chapter 3.4).

For Georgia and Ukraine, the number of suspected persons did not decrease in the year in which the visa waiver was introduced; for Moldova, there was a decrease in the year of liberalisation in 2014, but an in-

<sup>23</sup> Convention relating to the status of refugees of 28 July 1951, see Federal Law Gazette Part II 1953 Nr. 19 of 24 November 1953.

<sup>24</sup> For FYR Macedonia, Montenegro and Serbia 19 December 2009; for Albania and Bosnia-Herzegovina 15 December 2010.

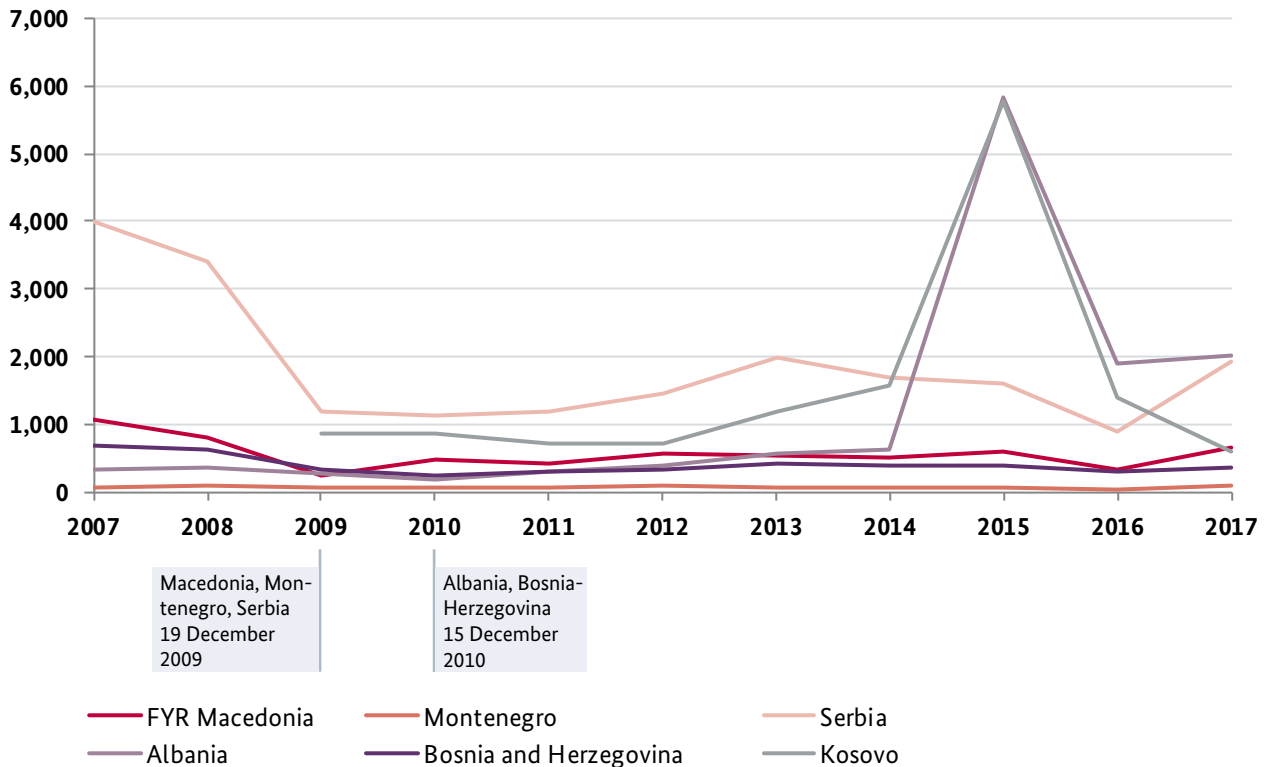


crease again from 2015 onwards and, in particular, a sharp increase in unauthorised entries in 2017 (Figure 11).

The trends and developments described do not allow any conclusions to be drawn about the direct effects

of visa liberalisation. It becomes clear, however, that the possibility of visa-free entry into the observed countries does not lead to fewer investigations being initiated for unauthorised entry. It is not yet possible to draw any conclusions in this respect for Georgia and Ukraine.

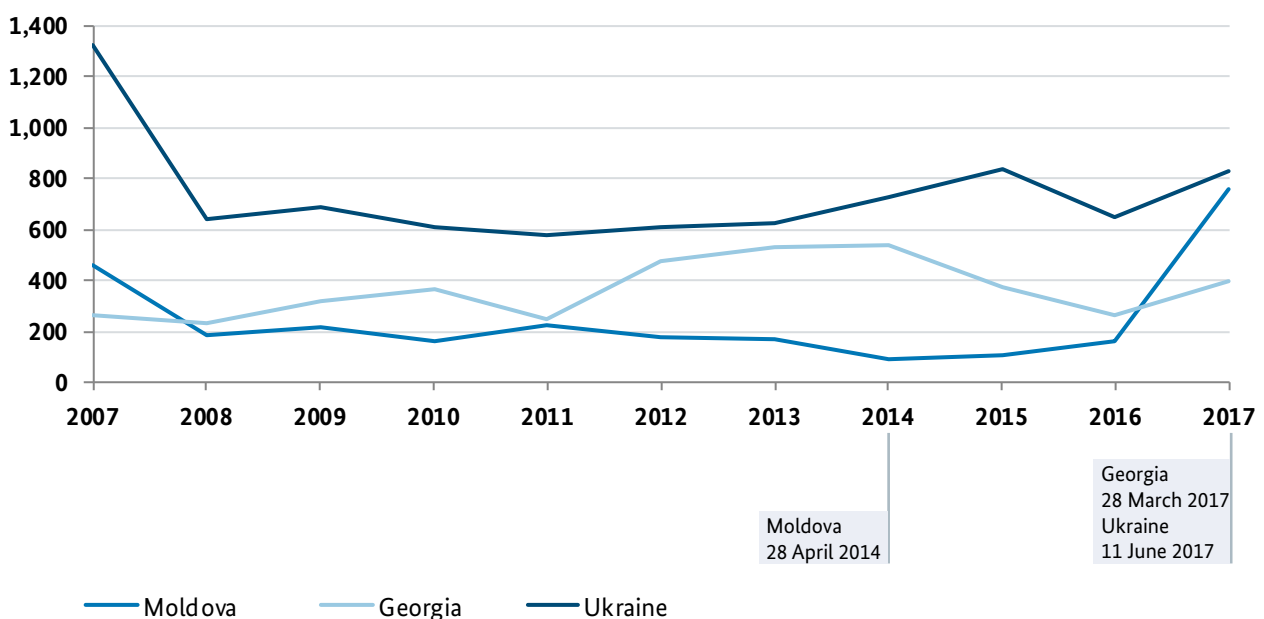
**Figure 10: Suspected offenders, unauthorised entry, Western Balkan countries (2007 to 2017)**



Source: PCS

\* incl. former Serbia and Montenegro as well as Serbia until 17 February 2008.

**Figure 11: Suspected offenders, unauthorised entry, Georgia, Moldova, Ukraine (2007 to 2017)**



Source: PCS.

### 3.5.3 Irregular stay

The number of Eurostat's statistics on irregular residents detected (Table 6) is a possible indicator of numbers and trends in relation to irregular residents. It should be noted that only cases of irregular residence which are registered by the authorities within one year are recorded in these statistics. The figures do not reflect the actual number of irregular residents, and here too the more checks are carried out, the higher the number of irregular residents detected (cf. Grote 2015: 15 et seq.). In addition, persons whose irregular residence was established during an exit check, and who are therefore no longer resident in Germany at the time when they are recorded in statistics, are also taken into account.

Figure 12 shows a similar trend to the figures on unauthorised entry (Figure 10) and asylum applications filed (Table 4) for the Western Balkan countries. For some countries, an increase can be observed in the years following visa liberalisation; however, a stronger increase can be observed in 2012 and 2013 - i.e. with a time lag to visa liberalisation and roughly parallel to the increase in asylum applications (Figure 12). The comparison with Kosovo, for which no visa waiver applies, is also interesting in this context. Here, too, the number of irregular residents detected rose from 2012

onwards, rising in 2015 to more than four times the number detected in 2011.

In the case of the other countries under review, the development is slightly different (Figure 13): Georgia shows an almost steady increase with a temporary decline in 2011 and 2015; in the case of Ukraine, there was a sharp increase in 2015, and there was a particularly sharp rise in the number of nationals of Moldova in 2016. This could be linked to the number of asylum applications filed and decisions taken: The number of asylum applications filed by Moldovan nationals increased significantly in 2015 and 2016, but the number of decisions taken only increased in 2016, while the protection rate was low (Table 5). As a result of the increased number of rejected asylum seekers from Moldova, it can be assumed that the number of irregular residents has increased too. In the case of the Western Balkan countries, on the other hand, the number of decisions taken rose significantly as already in 2015. In addition, applications from these countries were already being processed as a priority (cf. Chapter 5.3.1).

The phenomenon of "overstaying" can represent an important proportion of irregular migration or irregular residence particularly in the case of countries exempt from visa requirements. As with other indicators of irregular migration, however, there are no reliable figures available on this. In the Police Entry Statistics

**Table 6: Third country nationals found to be irregularly present, Western Balkans, Georgia, Moldova, Ukraine (2008 to 2017)**

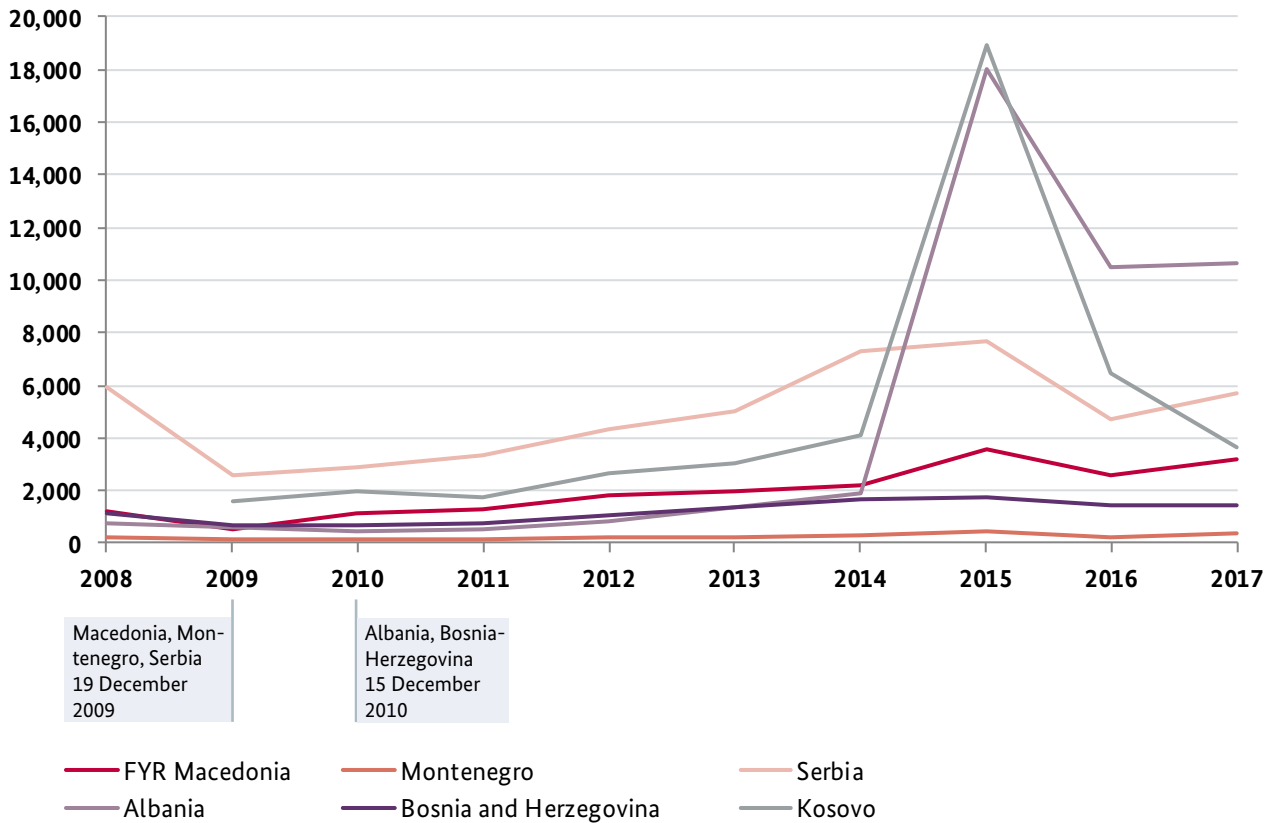
Third-country nationals detected with an irregular residence status	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
FYR Macedonia	1,225	560	1,125	1,255	1,805	1,970	2,205	3,530	2,560	3,205
Montenegro	210	140	175	165	230	245	275	430	250	380
Serbia	5,920	2,590	2,920	3,375	4,350	4,980	7,295	7,650	4,710	5,725
Albania	755	615	460	545	855	1,345	1,920	17,995	10,520	10,640
Bosnia and Herzegovina	1,115	685	650	790	1,095	1,330	1,640	1,715	1,440	1,450
Kosovo	N/A	1,605	1,935	1,715	2,645	3,070	4,110	18,965	6,480	3,615
Moldova	335	325	275	325	265	260	205	285	2,050	2,235
Georgia	460	605	710	585	1,085	1,380	1,580	1,495	1,810	2,030
Ukraine	1,325	1,155	1,070	1,095	1,280	1,265	1,455	2,550	2,270	2,405
Western Balkans total (excl. Kosovo)	9,225	4,590	5,330	6,130	8,335	9,870	13,335	31,320	19,480	21,400
Georgia, Moldova, Ukraine total	2,120	2,085	2,055	2,005	2,630	2,905	3,240	4,330	6,130	6,670
Total (excl. Kosovo)	11,345	6,675	7,385	8,135	10,965	12,775	16,575	35,650	25,610	28,070
<b>Total number of all third-country nationals found to be irregularly present</b>	<b>53,695</b>	<b>49,555</b>	<b>50,250</b>	<b>56,345</b>	<b>64,815</b>	<b>86,305</b>	<b>128,290</b>	<b>376,435</b>	<b>370,555</b>	<b>156,710</b>

Source: Eurostat [migr\_eipre].

(PES) of the Federal Police, the identified 'overstayers' and all other persons under initial suspicion of unauthorised residence are evaluated separately. However, these are only the cases which come to the Federal Police's attention in its border policing activity - i.e.

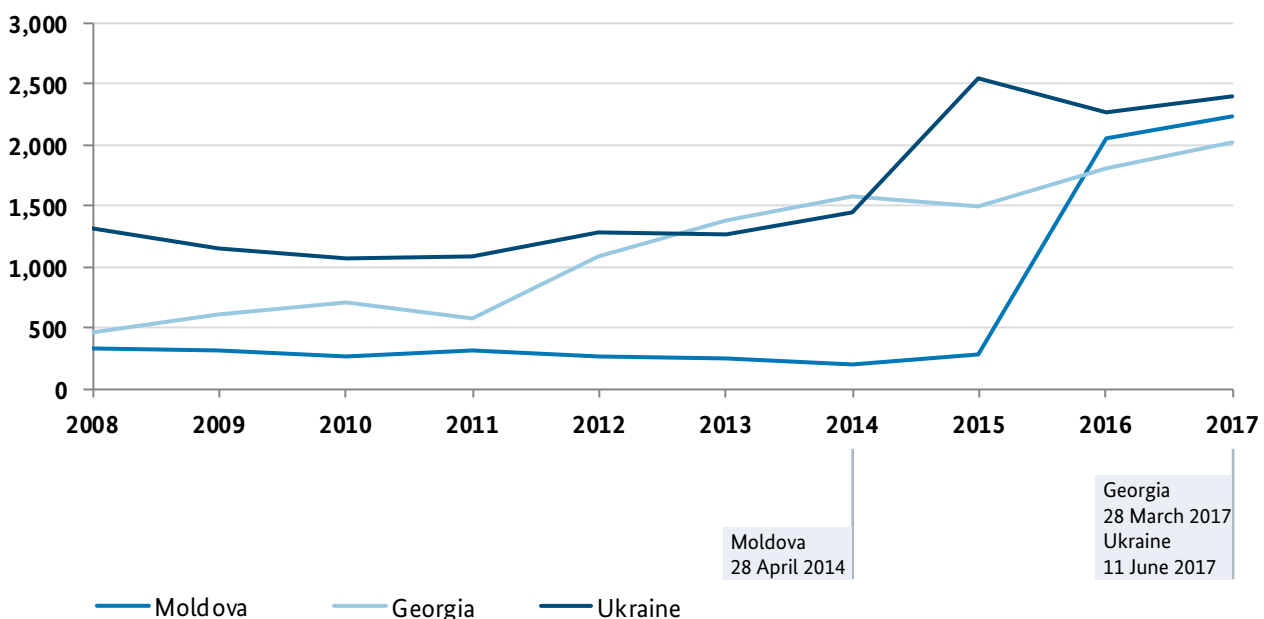
above all during the execution of border controls and other control measures, for example railway policing or controls in the border area. This explains why the overall figures are significantly lower than the above-mentioned figures on irregular residence. The PES data

Figure 12: Third country nationals found to be irregularly present, Western Balkan countries (2008 to 2017)

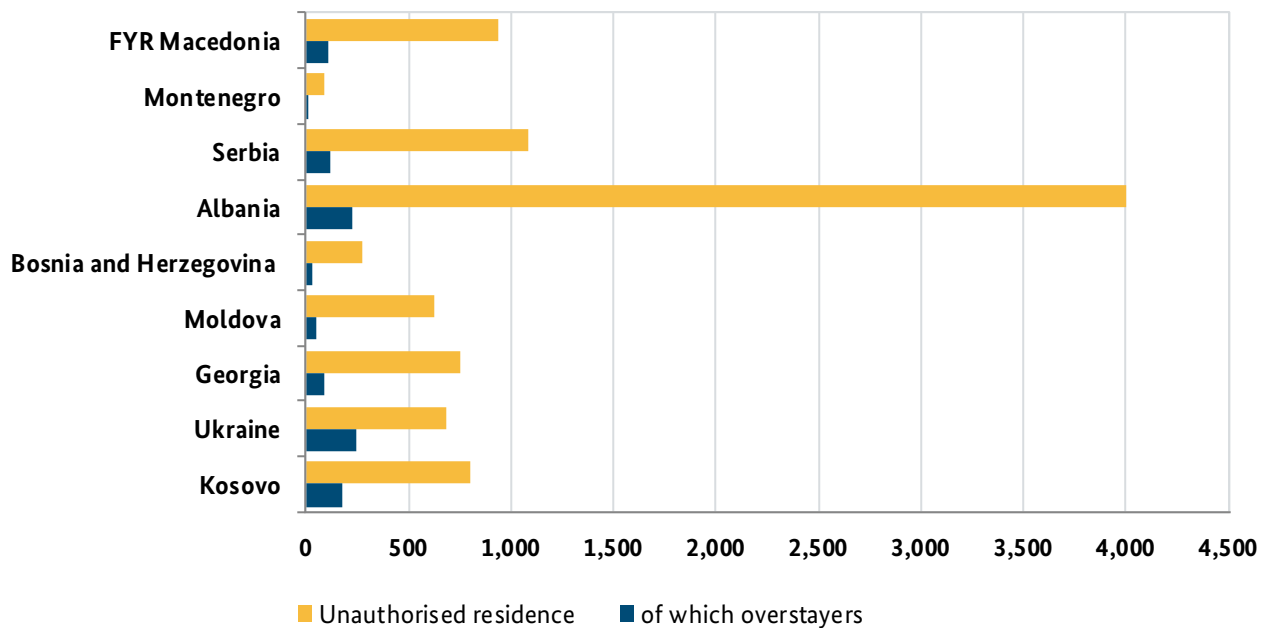


Source: Eurostat [migr\_eipre].

Figure 13: Third country nationals found to be irregularly present - Georgia, Moldova, Ukraine (2008 to 2017)



Source: Eurostat.

**Figure 14: Proportion of overstayers among persons under initial suspicion of unauthorised residence (2017)**

Source: PES, Federal Police.

for 2017 show that the proportion of 'overstayers' in the total number of persons found to be residing irregularly is rather low (Figure 14). It must be borne in mind, however, that the Federal Police detects the majority of cases of unauthorised residence upon departure.

### 3.5.4 Smuggling of migrants

Like unauthorised entry and irregular residence, smuggling is a "classic offence that is detected by controls" (BKA/BPOLP 2017: 2). "The successful prevention [of smuggling] is therefore heavily dependent on the human and material resources available, the intensity of controls, cross-border police cooperation and international legal assistance with other countries" (BKA/BPOLP 2017: 2). Consequently, no comprehensive statistics are available on this issue either. The figures used here for smuggled persons detected and suspected smugglers are taken from the PES. These are all persons who are under initial police suspicion. However, the figures do not provide any information as to how many persons are actually suspected of having been smuggled into the country or in how many cases investigations have been initiated.

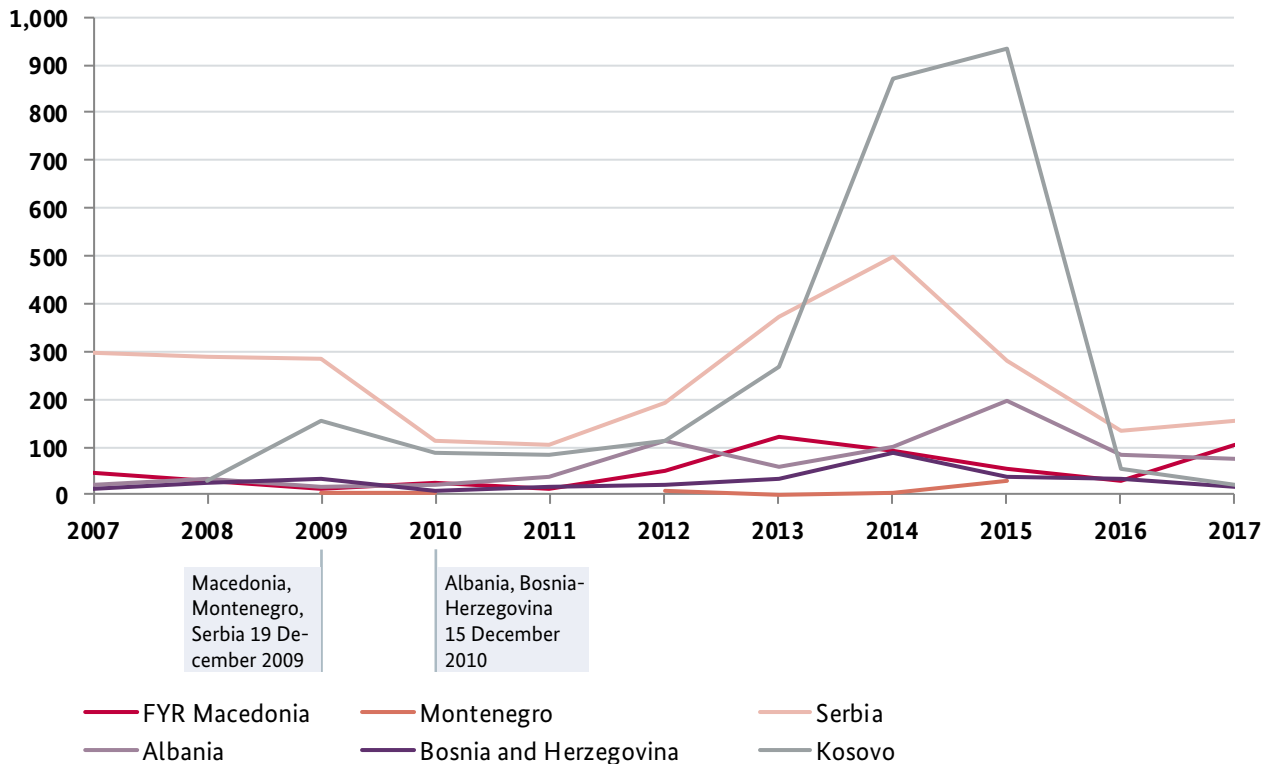
The total number of smuggled persons detected is many times lower than the number of unauthorised entries or the number of asylum seekers from the countries under review. For Serbian nationals, in par-

ticular, an initial decline can be observed since the introduction of visa-free travel; from 2012, the figures increased significantly for almost all countries (Figure 15). In the case of Moldova, there was a very strong increase in 2017, the third year after visa liberalisation; similar to the development in the figures for unauthorised entry. In 2017, Molodvan nationals ranked third among those smuggled into Germany and detected by the Federal Police.

The number of Kosovar nationals smuggled into the federal territory has been significantly higher than for other countries since 2013. This could be due to the fact that Kosovar citizens are not exempt from visa requirements. However, the number of smuggled persons also increased significantly for the visa-free countries in 2013 – albeit at a very low level overall. One possible reason could be that people use a people smuggler above all if they are not allowed to enter the Schengen area despite visa exemptions, for example if an entry ban was imposed because of an earlier removal (cf. Section 11 of the Residence Act). It is not possible to say whether and to what extent this happens for entries into Germany.

In addition to smuggling, persons from visa-exempt countries can also make use of services similar to smuggling, for example during an unauthorised stay. The Federal Police, for example, reports cases in which persons are instructed and paid to stamp passports in other EU countries in order to feign a timely departure after a maximum of 90 days. Another modus operandi,

Figure 15: Number of persons smuggled (initial suspicion), Western Balkan countries (2007 to 2017)



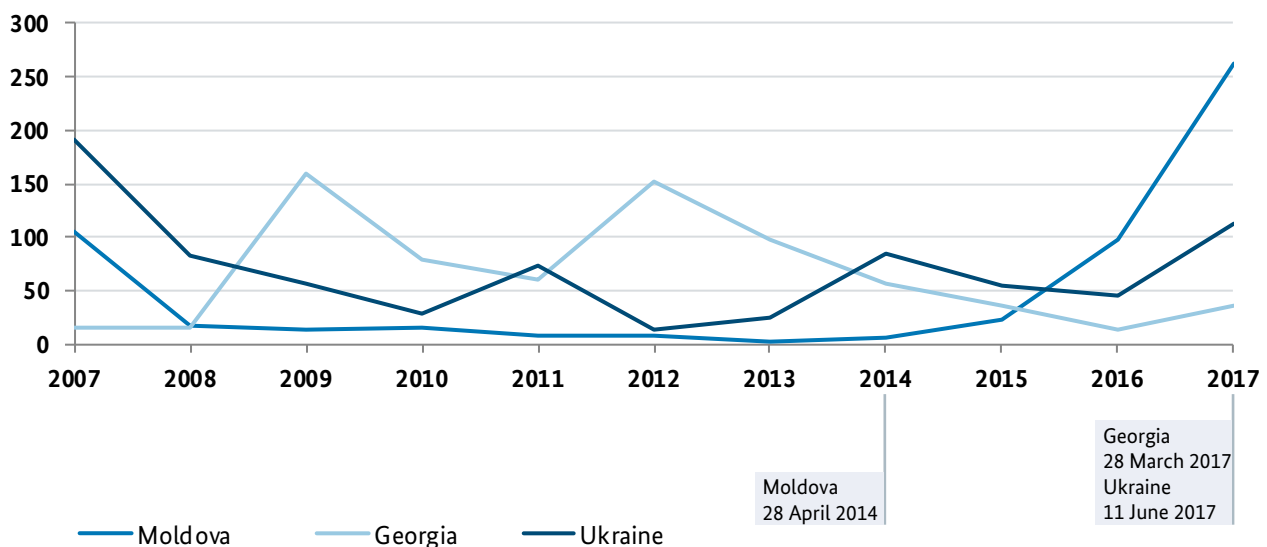
according to the Federal Police, is the obtaining of false passports after legal entry for the purpose of taking up illegal employment - this is intended to create the impression that the persons concerned are EU nationals who enjoy freedom of movement for workers throughout the EU.

Although the number of smuggled persons has increased since 2012, the proportion of nationals from

the countries under review in all smuggled persons detected is comparatively low - in 2015 it was less than 5% (excluding Kosovo; Figure 17).

An examination of the suspected people smugglers identified by the Federal Police reveals a different timeline for increases and decreases than for unauthorised entries or smuggled persons (Table 7). Serbian, Kosovar and Ukrainian citizens in particular are

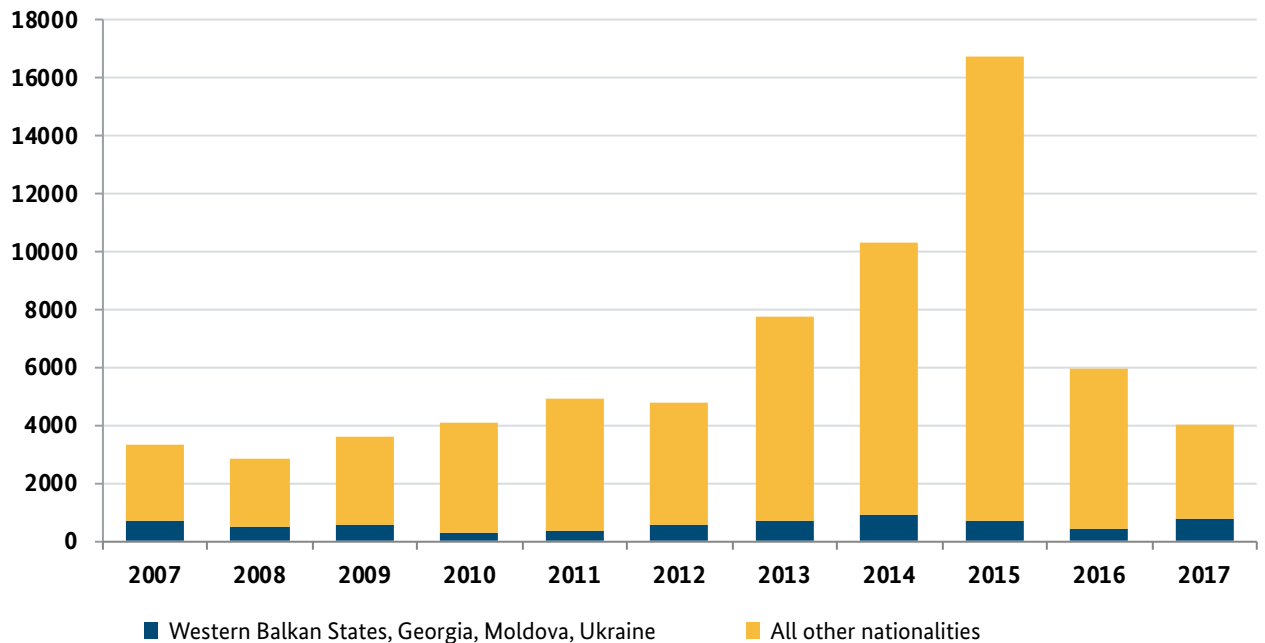
Figure 16: Number of persons smuggled (initial suspicion), Georgia, Moldova, Ukraine (2007 to 2017)



among the most frequent European suspects. Although the number of Serbian suspects has increased since visa liberalisation, it was roughly the same in 2007 and 2008 as it was in 2013. It therefore cannot be assumed that visa liberalisation is the cause of an

increase or decrease in the number of suspects in this context. Among all identified suspects, German, Syrian, Iraqi and Serbian nationals constitute the largest groups, especially in recent years (cf. BKA/BPOLP 2017: 9).

Figure 17: Proportion of nationalities from visa-free countries among all smuggled persons (initial suspicion, 2007 to 2017)



Source: PES, Federal Police.

Table 7: People smugglers detected by police (initial suspicion), Western Balkan countries, Georgia, Moldova, Ukraine (2007 to 2017)

Nationality	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
FYR Macedonia	22	13	9	9	6	16	32	20	19	9	16
Montenegro	6		1	1	2	4	1	1	5	3	2
Serbia	109	112	87	49	34	70	104	149	146	51	48
Albania	9	12	5	10	3	13	10	20	42	12	16
Bosnia and Herzegovina	8	21	5	6	4	7	8	21	22	12	7
Kosovo		11	15	10	18	30	55	85	100	14	7
Moldova	7	6	3	2	3		1	6	5	18	61
Georgia	5	4	11	3	2	13	8	13	13	6	10
Ukraine	21	18	8	10	30	6	21	34	51	43	39
Western Balkans total (excl. Kosovo)	154	158	107	75	49	110	155	211	234	87	89
Georgia, Moldova, Ukraine total	33	28	22	15	35	19	30	53	69	67	110
<b>Total (excl. Kosovo)</b>	<b>187</b>	<b>186</b>	<b>129</b>	<b>90</b>	<b>84</b>	<b>129</b>	<b>185</b>	<b>264</b>	<b>303</b>	<b>154</b>	<b>199</b>
<b>Total number of smugglers identified</b>	<b>1,282</b>	<b>1,086</b>	<b>947</b>	<b>711</b>	<b>737</b>	<b>900</b>	<b>1,535</b>	<b>2,149</b>	<b>3,370</b>	<b>1,008</b>	<b>942</b>

Source: PES, Federal Police.

## 3.6 Return

The figures on persons ordered to leave the federal territory, assisted voluntary returns<sup>25</sup> and removals show a similar trend to the statistics previously considered, in particular the trend is similar to that of asylum applications. In 2010 – the year after visa liberalisation for Serbia, FYR Macedonia and Montenegro – there was a marked increase in assisted voluntary returns, especially among Serbian and Macedonian nationals (Table 8). The total number of departures of Western Balkan nationals under the REAG/GARP programme rose steadily until 2014 (Table 9). In 2015, a particularly sharp increase in the number of returns can be observed (Figure 18). This occurred in parallel with the sharp increase in asylum applications, particularly by Kosovar and Albanian nationals (Table 4), and in the context of an overall sharp rise in the influx of asylum seekers. As a result of the high number of asylum decisions taken and the low level of protection granted to nationals of the Western Balkan countries (Table 5), the number of government-assisted departures rose sharply too. This increasing trend continued in 2016. In 2017, the number of government-assisted departures to the Western Balkan countries fell significantly again.

<sup>25</sup> Figures are only available for assisted voluntary returns under the REAG/GARP programme (see BAMF 2017a). Further statistics, e. g. on returns supported by the Länder or on unassisted voluntary returns, are not available (cf. Hoffmeyer-Zlotnik 2017: 20).

The number of departures of Georgian, Moldovan and Ukrainian nationals under the REAG/GARP programme also increased with a time lag in relation to the number of asylum applications submitted and roughly in parallel to the number of irregular residents from the respective countries detected (Chapters 3.4.2 and 3.5.3). In the case of Georgia, a continuous and significant increase can be observed between 2013 and 2017 (Table 8). For Moldovan nationals, the figures are at a very low level up to and including 2015 and then rise sharply in 2016. In the case of Ukraine, there has been an increase in departures from 2015 onwards; in 2016 the number rose particularly sharply (Table 8).

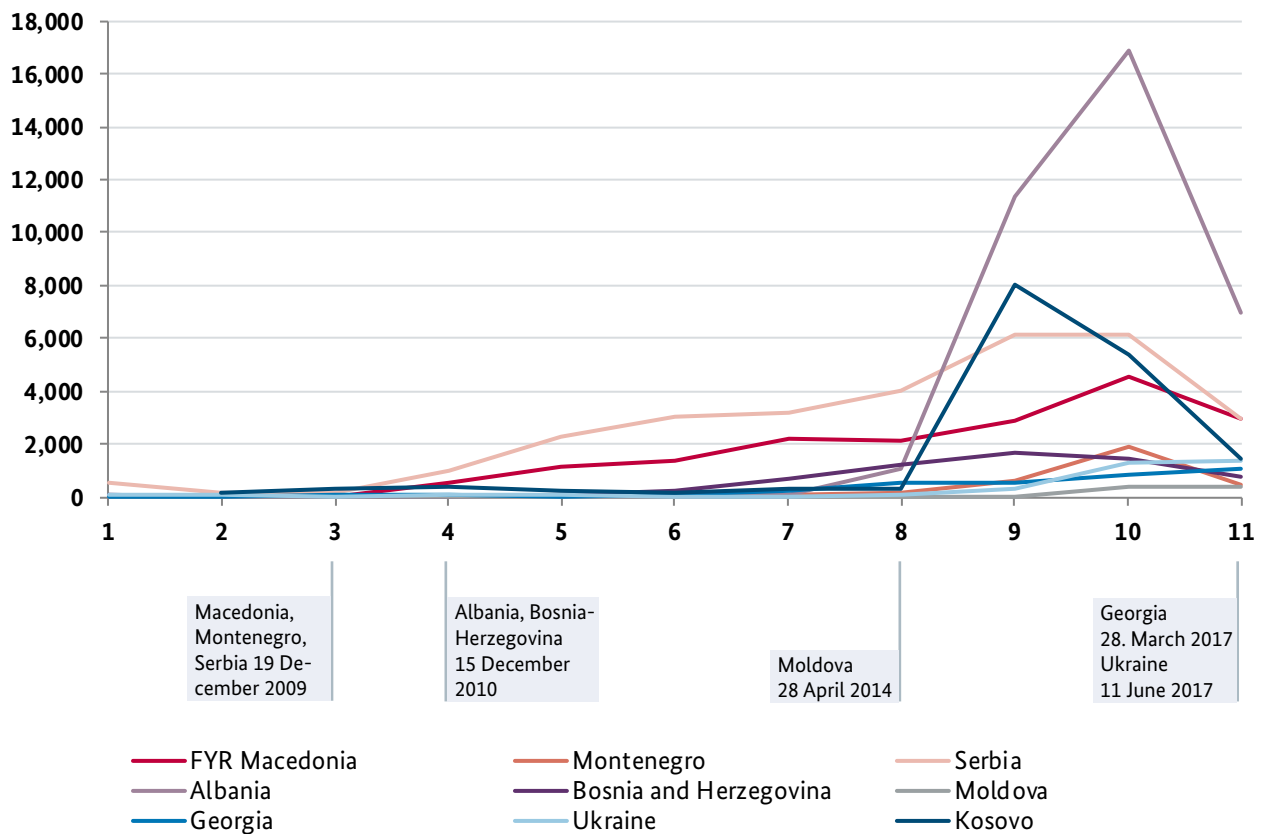
Up to and including 2014, Serbian nationals represented the largest group among the countries surveyed in this study, both among those leaving voluntarily and among those removed (Table 8; Table 9). In 2015, Kosovar nationals constituted the largest group of persons removed, while Albanian nationals represented the largest group of returning voluntarily. The countries examined in the study play an important role in an overall comparison of all the nationalities of returnees: in 2015, nationals of the Western Balkan countries (including Kosovo) accounted for around 86.7% of all returnees under the REAG/GARP programme. In 2017, the proportion of the Western Balkan countries among total departures fell to 52.5%. The proportion of Ukraine, Georgia and Moldova increased from 2.4% to 9.6% between 2015 and 2017.

**Table 8: Assisted returns under the REAG/GARP programme, Western Balkan countries, Georgia, Moldova, Ukraine (2007 to 2017)**

Nationality of the country	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
FYR Macedonia	28	31	33	530	1,173	1,401	2,166	2,098	2,901	4,581	2,948
Montenegro	24	31	16	25	12	54	55	146	635	1,866	449
Serbia*	505	136	140	962	2,263	3,068	3,191	3,990	6,155	6,166	2,933
Albania	9	9	11	7	18	32	80	1,042	11,378	16,888	6,950
Bosnia and Herzegovina	50	40	39	29	67	250	681	1,249	1,699	1,448	767
Kosovo		194	329	377	204	138	281	338	8,026	5,348	1,449
Moldova	1	14	10	12	10	3	3	2	8	353	391
Georgia	36	39	60	82	88	112	256	504	566	817	1,094
Ukraine	52	62	39	47	59	30	25	53	280	1,283	1,360
Western Balkans total (excl. Kosovo)	616	247	239	1,553	3,533	4,805	6,173	8,525	22,768	30,949	14,047
Georgia, Moldova, Ukraine total	89	115	109	141	157	145	284	559	854	2,453	2,845
<b>Total (excl. Kosovo)</b>	<b>705</b>	<b>362</b>	<b>348</b>	<b>1,694</b>	<b>3,690</b>	<b>4,950</b>	<b>6,457</b>	<b>9,084</b>	<b>23,622</b>	<b>33,402</b>	<b>16,892</b>
<b>Total number of assisted returns under the REAG/GARP programme</b>	<b>3,437</b>	<b>2,799</b>	<b>3,107</b>	<b>4,480</b>	<b>6,319</b>	<b>7,546</b>	<b>10,251</b>	<b>13,574</b>	<b>35,514</b>	<b>54,006</b>	<b>29,522</b>

Source: IOM Germany.

\* incl. former Serbia and Montenegro.

**Figure 18: Assisted voluntary returns under the REAG/GARP programme; Western Balkans, Georgia, Moldova and Ukraine (2007 to 2017)**

Quelle: IOM Deutschland.

**Table 9: Removals, Western Balkans countries, Georgia, Moldova, Ukraine (2007 to 2017)**

Nationality	2007*	2008*	2009*	2010	2011	2012	2013	2014	2015	2016	2017
FYR Macedonia	188	171	160	260	492	513	760	807	1,597	1,973	1,544
Montenegro	73	53	37	47	40	46	54	42	126	275	218
Serbia**	1.018	499	455	588	1.002	1.500	2.017	2.177	3,627	3,781	2,374
Albania	236	200	181	149	175	280	280	519	3,742	6,041	3,471
Bosnia and Herzegovina	163	150	112	136	123	145	32	445	511	796	497
Kosovo		274	523	719	555	564	846	789	5,955	5,043	2,772
Moldova	86	69	72	77	56	40	27	21	18	239	751
Georgia	159	112	118	308	255	233	247	265	292	451	698
Ukraine	241	172	131	192	249	117	89	110	215	288	226
Western Balkans total (excl. Kosovo)	1,678	1,073	945	1,180	1,832	2,484	3,143	3,990	9,603	12,866	8,104
Georgia, Moldova, Ukraine total	486	353	321	577	560	390	363	396	525	978	1,675
<b>Total</b>	<b>2,164</b>	<b>1,426</b>	<b>1,266</b>	<b>1,757</b>	<b>2,392</b>	<b>2,874</b>	<b>3,506</b>	<b>4,386</b>	<b>10,128</b>	<b>13,844</b>	<b>9,779</b>
<b>Total number of removals</b>	<b>9,665</b>	<b>8,394</b>	<b>7,830</b>	<b>7,558</b>	<b>7,917</b>	<b>7,651</b>	<b>10,198</b>	<b>10,884</b>	<b>20,888</b>	<b>25,375</b>	<b>23,966</b>

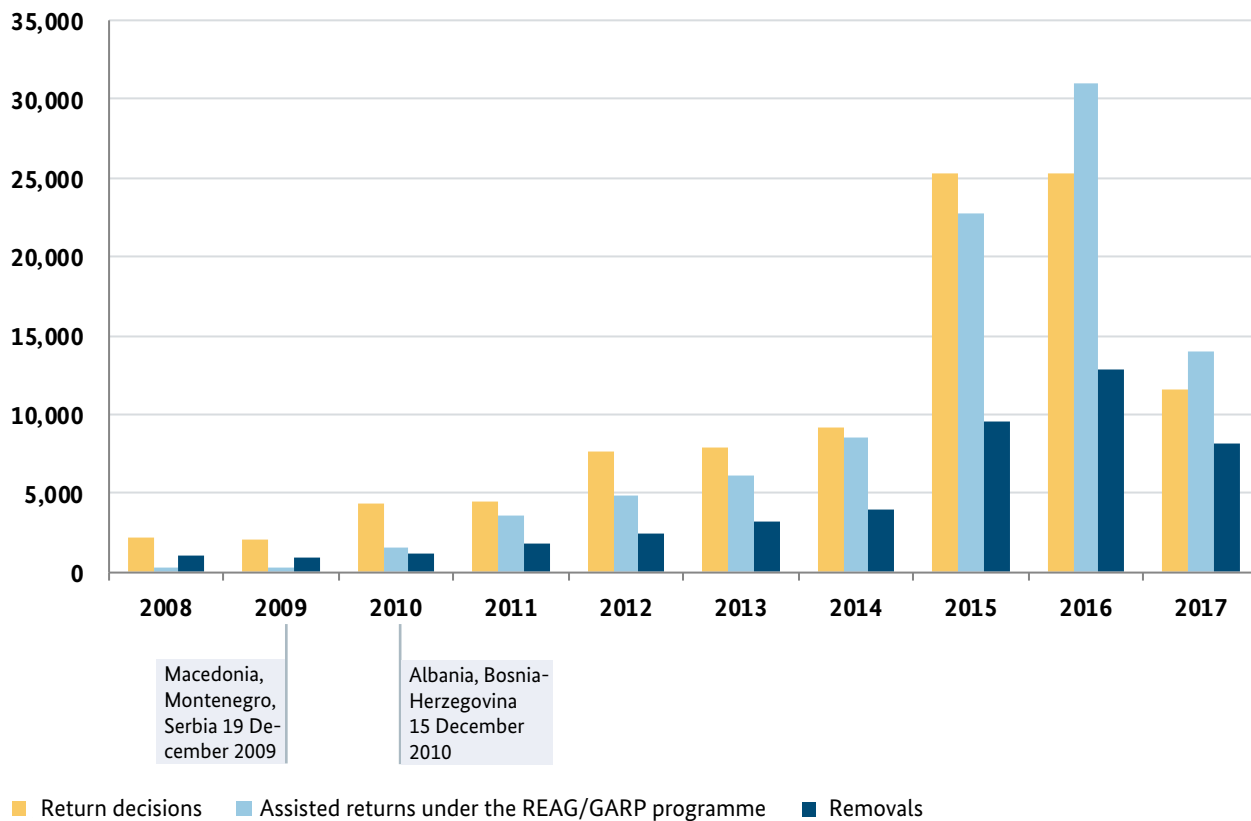
Source: own calculations on the basis of the Deutscher Bundestag (2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015a, 2016a, 2017a, 2018a; without removals by sea.

\*\* by country of destination instead of nationality; only removals by air.

\* incl. former Serbia and Montenegro.



**Figure 19: Orders to leave, Assisted returns under the REAG/GARP programme and removals, Western Balkan countries without Kosovo (2008 to 2017)**



Sources: Eurostat; IOM Germany; Deutscher Bundestag. Explanations see tables 8 and 9.

The high number of returns, particularly of Western Balkan nationals, is also linked to the measures taken in Germany and the countries concerned to increase the number of voluntary returns and removals following the increased number of unsuccessful asylum applications. These include the classification of the Western Balkan countries as safe countries of origin, information campaigns implemented in these countries and in Germany and a diplomatic initiative launched with a view to facilitating returns (cf. Chapter 5.4).

In the case of the Western Balkan countries (excluding Kosovo), the number of returns supported under the REAG/GARP programme has been higher than the number of removals since 2010 (Figure 19). Since 2013, the number of persons ordered to leave the federal territory has been lower than the sum of removals and assisted voluntary returns in the respective year. This means more persons left than were requested to leave the country in the respective year.

# 4 Impact of visa liberalisation

## 4.1 Overview

The possible effects of visa liberalisation are manifold, but they are often difficult to quantify. First and foremost, visa liberalisation makes life easier for third-country nationals wishing to travel to the EU by eliminating the application procedure, which involves a considerable amount of bureaucracy, fees and possibly a long journey (Weinar et al. 2012: 12). Accordingly, the abolition of the visa requirement also has a direct impact on the work of missions abroad and border police authorities.

Furthermore, the abolition of the visa requirement can have economic effects, for example through a higher number of short-term stays for visits, tourist purposes, educational and exchange trips or business trips. Effects on the asylum system and on irregular migration are also possible, as described in the previous Chapter (cf. Chapter 3).

The foreign policy consequences of visa liberalisation also have an impact on Germany and other EU countries – for example through improved diplomatic and economic relations between the visa-free countries and EU Member States or through improved cooperation, for example in matters of return and readmission of a country's own nationals. From the perspective of the Federal Foreign Office, for example, visa liberalisation has had a positive impact on bilateral relations, partly because it represents an important achievement for third countries and their nationals. The possible and observed effects of visa liberalisation in several areas are described below.

## 4.2 Impact on public authorities

For diplomatic missions in particular, the abolition of the visa requirement means a reduction in the administrative burden as it is no longer necessary to examine applications for short-term stays. The work of the Federal Police and the authorities responsible for monitoring cross-border traffic is also being made easier by visa liberalisation. This also applies to the

border authorities of the countries of origin, since exit checks can be time-consuming and susceptible to corruption (Weinar et al. 2012: 13). In the Federal Police's view, visa liberalisation has led to a reduction of both the administrative and the control-related workload. On the other hand, it is also difficult to identify a possible misuse of visa exemptions. The Federal Police has responded to this in particular by adopting an anticipatory strategy (cf. Chapter 5.1).

## 4.3 Misuse of the visa waiver and other negative effects

Even after the entry into force of the visa waiver, persons entering the country must still fulfil the entry requirements of the Schengen Borders Code – including having sufficient means of subsistence and the willingness to leave the country at the end of the 90 days. The general ban on employment also applies during the visa-free stay (Article 6 paragraph 1 lit. c of the Schengen Borders Code, Section 17 of the Residence Act; cf. Chapter 2.2.2). However, the authorities of the country of destination do not check prior to entry whether these requirements are met, resulting in the potential for misuse of the visa waiver. This includes, for example, taking up employment during the visa-free stay or so-called "overstaying". Another example of misuse is the attempt to circumvent the visa application process for longer stays by entering without a visa. This includes cases where the persons concerned apply for a residence permit (e. g. for family or employment reasons) directly with the foreigners authority after entering Germany, although the application has to be submitted first at the German embassy in their country of origin (see Chapter 2.2.2). In these cases, the foreigners authority does not process the application, and the persons concerned have to go back to their country of origin first in order to submit their application there. This attempt to circumvent the visa application procedure leads to a higher workload for the foreigners' authorities, which may include carrying out the removal of those persons.

In addition, authorities say there is a possibility of circumventing the maximum stay of 90 days, for example if a foreign national holds two passports at the

same time. A second passport can be issued in Ukraine and Moldova, for example. These passports can then be used to re-enter the country after the 90 days have expired, although this is not allowed within a period of 180 days. This will no longer be possible at all EU external borders once the entry/exit system adopted in 2017 comes into force, as all entries and exits will then be recorded in a central database (EMN/BAMF 2018: 89). Georgia also changed its naming law in spring 2018, which makes it more difficult to change the name and apply for a second passport under a different name (Mendelin 2018).

Filing an asylum application upon or after entry does not in itself constitute abuse, since all persons have the right to file an asylum application and the irregular entry of refugees must not be subject to penalties (cf. Article 31 paragraph 1 of the Geneva Refugees Convention). However, persons who intend to apply for asylum in an EU Member State cannot benefit from the visa waiver because they do not intend to stay for a short period of time only.<sup>26</sup> The large number of applications for asylum filed in the years following the introduction of visa-free travel, especially in the case of the Western Balkan countries, in combination with very low protection rates, was seen by various actors as an abuse of visa-free entry (CDU/CSU Fraktion im Deutschen Bundestag 2012; cf. also Leubecher 2013). Similarly, the increase in asylum applications filed by Georgian nationals at the end of 2017 and beginning of 2018 was often regarded as abuse. In the first half of 2018, this triggered a broad media debate about the consequences of visa liberalisation, also because the applicants were thought to include criminals (Bewarder 2018; see also Deutsche Welle 2018). Since 2011, various measures have been taken to reduce the incentives to enter the federal territory from visa-free countries with the aim of applying for asylum (cf. Chapter 5).

### 4.3.1 Illegal employment

One of the possible consequences of visa liberalisation could be an increase in the illegal employment of nationals of visa-free states. "Illegal employment" can be both the employment of third-country nationals residing irregularly in Germany and the employment of legally residing persons under violation of the requirements of their residence permit or for whom no work

permit has been issued – for example persons from visa-exempt countries who are in the Schengen area for a short stay (cf. EMN 2018b: 184). The exact extent of illegal employment cannot be determined "given the hidden nature of this form of employment"; only a few estimates exist and there are no recent estimates available (Tangermann/Grote 2017: 16). This means it is not possible to draw valid statistical conclusions about the increase or decrease in illegal employment since the visa exemption entered into force. However, statistics by the customs authority on investigation procedures in the context of illegal employment may provide information on the sectors in which illegal employment is most frequently detected and on the nationality of the persons concerned. However, as with irregular entry and residence statistics, the level of these figures depends on the intensity of checks carried out and on the main focus of the investigations.

In literature, Ukraine and Moldova are mentioned as important countries of origin of persons working irregularly in EU countries – however, the eastern and southern EU Member States are cited as the main countries of destination especially for Ukrainians (Dietz 2008; cf. also Weinart et al. 2012: 6). This form of irregular migration has been existing years before visa liberalisation, however.

In the opinion of the Federal Police, the visa waiver has made it much easier to enter Germany illegally and then take up work illegally. Therefore, an increase in illegal employment and increasing competition, especially in the low-wage sector, is to be expected in the future, according to the Federal Police. Accordingly, in 2017 there was an increase in the number of people smuggled in from Moldova with the aim of taking up illegal employment (see also Chapter 3.5.4); Ukrainian citizens are also a focus of the investigating authorities in this context. According to the Federal Police, Serbia and Albania are also among the main countries of origin of illegally employed third-country nationals.

According to the findings of the Central Customs Authority, the number of preliminary investigations in connection with illegal employment for nationals of the countries examined in this study has increased since the entry into force of visa liberalisation, in some cases with a time lag (cf. Table 10). It is therefore not yet possible to determine the consequences for Georgia and Ukraine. However, a similar pattern is expected, although the number of investigations involving Georgian nationals has been at a very low level for years, even compared with the generally low figures (Table 10).

<sup>26</sup> Cf. on the applicability of the EU Visa Code to humanitarian visas also ECJ, judgment of 7 March 2017, C-638/16 PPU – X and X v Belgium.

Investigations in the area of illegal employment involve in particular the construction industry and the hotel and catering industry, but also the industrial cleaning, transport, freight and related logistics industry (Table 10).

#### 4.3.2 Security risks and crime

The abolition of the examination of visa applications also means that no examination of possible security concerns towards the persons concerned can be carried out before the border control upon entry, as takes place in the visa procedure (cf. Section 72a of the Residence Act). However, no conclusion can be drawn here about any links between visa liberalisation and a possible increase in security risks.

Information on the development of crime in Germany is primarily provided by the PCS, which contain information about suspects and their nationality or residence status.<sup>27</sup> Serbia (rank 7) and Kosovo (rank 10) are among the 10 most frequent nationals among non-German suspects in the PCS for the year 2017 (not including violations of the Residence Act). The proportion of Serbian and Kosovar nationals among all non-German suspects (without violations of the Residence Act) was 3.4 % and 2 % respectively in 2017 (Table 11). Since 2010, there has been no increase in the number of visa-exempt countries as a direct result of visa liberalisation. The proportion has increased with regard to Serbian and Albanian nationals in 2014 and 2015, i.e. with a time lag of a few years. From 2016

<sup>27</sup> For the systematics and informative value of the PCS see Chapter 3.5.2.

**Table 10: Investigations conducted by the Central Customs Authority by nationality of suspected offenders**

Nationality	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	Top 5 industries
FYR Macedonia	20	20	23	47	63	122	116	114	88	97	117	Construction, hotel and catering industry, other services, transport, freight and related logistics industry, industrial cleaning
Montenegro	6	3	3	7	12	16	19	14	15	9	15	Construction, hotel and catering industry, other services, industrial cleaning, agriculture, fishing and forestry
Serbia	37	64	56	73	149	153	218	167	176	166	181	Construction, hotel and catering industry, other services, industrial cleaning, waste water disposal, waste management and remediation
Albania	21	13	10	14	25	41	55	75	81	136	171	Construction, hotel and catering industry, other services, transport and warehousing, cleaning services.
Bosnia and Herzegovina	10	41	30	43	101	115	116	132	102	105	178	Construction, hotel and catering industry, other services, transport and warehousing, cleaning services
Moldova	1	4	2	11	5	11	14	10	31	76	143	Construction, hotel and catering industry, other services, cleaning services, meat industry
Georgia	7	4	1	4	2	9	8	5	7	6	14	Construction industry, other services, hotel and catering industry, transport and warehousing
Ukraine	14	16	22	27	44	72	54	73	97	175	238	Construction industry, other services, hotel and catering industry, transport and warehousing cleaning services
<b>Total number of investigations initiated</b>	<b>1,031</b>	<b>998</b>	<b>998</b>	<b>1,097</b>	<b>1,461</b>	<b>1,703</b>	<b>1,823</b>	<b>1,600</b>	<b>1,360</b>	<b>1,582</b>	<b>2,035</b>	

Source: Central Customs Authority.

The data provided only applies to investigative procedures registered by the Customs Administration's Monitoring Unit for Undeclared Work (FKS) in relation to the nationalities of the employees surveyed. It should be noted, however, that nationality is not a mandatory detail when the investigation procedure is registered, meaning that the evaluations are only of limited informative value. In addition, these are exclusively criminal offences pursuant to Section 95 subs. 1 nos. 1-3 and (1a) of the Residence Act. Only employees are considered to be offenders; no information was supplied on criminal offences committed by the employer due to the objectives of this study. It is not possible to draw reliable conclusions regarding the overall number of offenders from the group of countries from the number of investigation proceedings instituted.

onwards, the proportions have decreased again for both countries.

The overall downward trend in the number of suspects among the nationalities examined in this study shows that visa liberalisation in these cases has not led to an increase in the number of suspects. However, it is important to highlight in this context that the figures only differentiate according to nationality and not according to length of stay or residence status. It is therefore impossible to say whether suspects are persons who immigrated to Germany after visa liberalisation or persons who have been staying in Germany for many years.

The most frequently identified offences of nationals of the countries examined here in 2017 are violations of the Residence Act (including unauthorised entry and residence), theft, pecuniary offences and counterfeiting offences (in particular fraud<sup>28</sup> as well as crimes of gross misconduct and offences against personal liberty (mainly personal injury; Table 12).<sup>29</sup> Among Albanian, Macedonian, Moldovan and Ukrainian suspects, violations of the Residence Act were the most frequently detected offences. In the case of Albanian suspects, they accounted for more than 60% of all identified criminal offences, in the case of Macedonian suspects for about 34%, in the case of Moldovan suspects for about 47% and in the case of Ukrainian suspects for about 36%. In the case of Georgian nationals, theft of-

fences accounted for about 60% of the offences detected, followed by violations of the Residence Act. A comparatively high proportion of theft-related offences can also be found among Moldovan nationals (approx. 40%). Among Kosovar, Montenegrin and Serbian suspects, no type of offence clearly outweighs the others (Table 12).

A comparison with the most common types of offence committed in 2009 shows a shift for some nationals: For all Western Balkan countries except Kosovo and Moldova, the proportion of offences against the Residence Act increased between 2009 and 2017, probably due to the increase in unauthorised entries detected and asylum applications filed (Chapter 3). On the other hand, the proportion of crimes of gross misconduct decreased for the majority of nationals. The proportion of theft-related offences rose among Georgian and Moldovan nationals and fell slightly among Serbian and Ukrainian nationals.

### 4.3.3 Identity fraud

No reliable conclusions can be drawn on the number of cases of identity fraud by persons from the countries examined in this study in connection with irregular migration. The PCS do not provide any figures on this, as crimes are recorded in these statistics on the basis of a "law-oriented" list of crimes. The statistics do not provide any indication of the type or extent of the offence committed. "Identity fraud is not a criminal offence in its own right (in the PCS) nor is it a subcategory of other offences. In this respect, it

<sup>28</sup> A considerable proportion of the fraud offences relates to the inappropriate use of transport services, i.e. fare evasion.

<sup>29</sup> The calculations presented here are based on Table 62 of PCS (Offences and Nationality of Non-German Suspects).

**Table 11: Suspected offenders by nationality - total number of offences not including violations of the Residence Act**

	2010	2011	2012	2013	2014	2015	2016	2017	Total number 2017
Nationality	% - Proportion of non-German suspects								
FYR Macedonia	1.1	1.2	1.2	1.3	1.4	1.4	1.3	1.1	6,845
Serbia	4.1	4.3	4.2	4.3	4.7	4.8	3.9	3.4	20,404
Albania	0.5	0.5	0.6	0.6	0.8	2.5	2.3	1.6	9,545
Bosnia and Herzegovina	1.9	1.8	1.8	1.8	1.8	1.8	1.5	1.4	8,509
Kosovo	1.6	1.8	2	2.1	2.2	3	2.3	2	12,277
Georgia	0.5	0.4	0.6	0.8	1.1	1.3	1.1	1.1	6,383
<b>Non-German suspects in total</b>	<b>419,232</b>	<b>427,259</b>	<b>435,559</b>	<b>453,015</b>	<b>492,610</b>	<b>555,820</b>	<b>616,230</b>	<b>599,357</b>	
<b>German suspects in total</b>	<b>1,679,369</b>	<b>1,626,973</b>	<b>1,590,398</b>	<b>1,554,313</b>	<b>1,531,013</b>	<b>1,456,078</b>	<b>1,406,184</b>	<b>1,375,448</b>	

Source: PCS 2017, volume 3, p. 129. As the evaluation only takes into account the top 25 nationalities, no data has been provided for Montenegro, Moldova or Ukraine.

**Table 12: Suspects by selected types of offence and nationality**

Year		2009					2017				
Nationality		Theft	Violations of the Residence Act	Pecuniary and counterfeiting offences	Crimes of gross misconduct and offences against personal liberty	Total Suspects	Theft	Violations of the Residence Act	Pecuniary and counterfeiting offences	Crimes of gross misconduct and offences against personal liberty	Total Suspects
Albania	TV	834	670	623	917	3,079	4,458	10,808	3,288	1,851	17,952
	in %*	27%	22%	20%	30%		25%	60%	18%	10%	
Bosnia and Herzegovina	TV	2,339	838	2,065	2,634	8,268	2,415	1,523	2,639	2,631	9,734
	in %*	28.3%	10.1%	25.0%	31.9%		24.8%	15.6%	27.1%	27.0%	
Georgia	TV	1,153	799	537	244	2,352	4,574	2,248	1,917	708	7,671
	in %*	49.0%	34.0%	22.8%	10.4%		59.6%	29.3%	25.0%	9.2%	
Kosovo	TV	1,420	1,809	1,049	1,659	6,073	3,319	3,799	3,423	4,598	15,441
	in %*	23.4%	29.8%	17.3%	27.3%		21.5%	24.6%	22.2%	29.8%	
FYR Macedonia	TV	1,064	670	1,134	1,571	4,728	2,123	3,286	2,286	2,085	9,735
	in %*	22.5%	14.2%	24.0%	33.2%		21.8%	33.8%	23.5%	21.4%	
Moldova	TV	324	360	238	129	1,058	1,996	2,330	1,045	350	4,957
	in %*	30.6%	34.0%	22.5%	12.2%		40.3%	47.0%	21.1%	7.1%	
Montenegro	TV	489	177	392	744	1,827	750	403	688	623	2,433
	in %*	26.8%	9.7%	21.5%	40.7%		30.8%	16.6%	28.3%	25.6%	
Serbia**	TV	6,572	2,808	5,670	6,903	21,857	6,578	5,994	7,046	6,081	25,396
	in %*	30.1%	12.8%	25.9%	31.6%		25.9%	23.6%	27.7%	23.9%	
Ukraine	TV	1,820	1,384	1,259	1,068	5,963	2,276	3,119	1,699	1,271	8,688
	in %*	30.52%	23.21%	21.11%	17.91%		26.20%	35.90%	19.56%	14.63%	

Source: Federal Criminal Police Office, Table 62 PCS 2017. TV = suspects.

Theft \*\*\*\*00; violations of the Residence Act 725000; Pecuniary and counterfeiting offences 500000; road rage and offences against personal liberty 200000.

The types of offences listed here are groupings of several individual offences; not all offences or types of offences which are listed in the PCS are also listed here. Suspects can be counted in several groups, if several offences are listed per person. This is why the sum of the number of suspects listed per group does not match 100 % (for more information on the classification scheme of the PCS see BKA 2017).

\* share of all suspects of the respective nationality. \*\* incl. former Serbia and Montenegro.

is currently not possible to compile statistics on this phenomenon".<sup>30</sup> The offence of forgery of documents recorded in the PCS is too comprehensive, as it also includes offences that are not connected with irregular entry or irregular residence.

The PCS cover the offences of furnishing or using false or incomplete information in order to procure a residence title or by using a residence title obtained in such a way for the purpose of deceit in legal matters (Section 95 subs. 2 no. 2 of the Residence Act). This

also includes the obtaining and use of a visa. For the Western Balkan countries, there is a declining trend in the number of suspects recorded for both these offences, although this was already becoming apparent in some cases before the year of visa liberalisation (Table 13). The increase in the number of suspects with Ukrainian nationality from 2011 and in 2012 in particular is striking. It is not yet possible to predict how this will develop as a result of the introduction of visa-free travel. With regard to possible cases of identity fraud or document forgery, it should be noted that document security is an important prerequisite for the visa requirement being lifted in the first place (cf.

30 Source: Written answer by the Federal Criminal Police Office.

Chapter 2.3.1). "In the years since 2008, the incidence of forged and falsified German visas among Georgian, Kosovar and Ukrainian citizens has remained at an extremely low level" (Deutscher Bundestag 2016b: 4). In

2014 and 2015, the Federal Police found "no falsified German visas for Georgian, Kosovar and Ukrainian citizens" (Deutscher Bundestag 2018b: 4).

**Table 13: Persons suspected of obtaining a visa under false pretences, Western Balkans, Georgia, Moldova and Ukraine (PCS, 2007 to 2017)**

Nationality	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
FYR Macedonia	96	47	19	17	11	16	7	10	6	12	11
Montenegro	0	9	11	2	3	5	3	6	2	9	3
Serbia*	405	252	108	153	106	54	53	54	28	46	29
Albania	68	31	19	17	4	8	6	3	10	10	11
Bosnia and Herzegovina	127	96	46	59	26	39	19	28	16	20	16
Kosovo			36	51	42	63	69	72	61	54	58
Moldova	27	13	14	12	9	18	12	9	3	6	5
Georgia	122	411	50	37	22	13	34	74	86	94	124
Ukraine	460	167	150	148	295	958	648	697	667	472	629
Western Balkans total (excl. Kosovo)	696	435	203	248	150	122	88	101	62	97	70
Georgia, Moldova, Ukraine total	609	591	214	197	326	989	694	780	756	572	758
<b>Total (excl. Kosovo)</b>	<b>1,305</b>	<b>1,026</b>	<b>417</b>	<b>445</b>	<b>476</b>	<b>1,111</b>	<b>782</b>	<b>881</b>	<b>818</b>	<b>669</b>	<b>828</b>
<b>Total (all nationalities)</b>	<b>6,500</b>	<b>N/A</b>	<b>2,529</b>	<b>2,788</b>	<b>2,704</b>	<b>4,140</b>	<b>4,094</b>	<b>3,745</b>	<b>3,155</b>	<b>2,944</b>	<b>4,609</b>

Source: PCS, Table 62, No. 725310; 2007 and 2008 not differentiated according to type of residence permit (residence permit, permanent settlement permit, and visa).

\* incl. former Serbia and Montenegro.



# 5 Measures taken

The main purpose of the measures described below is to prevent or punish violations of the requirements for visa-free entry. As such, a distinction can be made between border police measures, measures in the visa-free countries themselves and cooperation with these countries, measures in connection with increased asylum immigration and irregular migration as well as measures aimed at the return of persons residing irregularly. The measures in connection with increased asylum immigration and irregular migration also include the simplified legal labour migration channel for nationals of the Western Balkan countries.

## 5.1 Border Police measures

The Federal Police generally take the following measures in the run-up to visa liberalisation:<sup>31</sup>

- Assessment of migration-relevant and security policy implications (in coordination with the Federal Ministry of the Interior, Building and Community and the Federal Foreign Office)
- Prompt forwarding of the information (order) to subordinate authorities and to the authorities responsible for controlling cross-border traffic, the Bavarian Police, the Federal Customs Administration (Bundeszollverwaltung (BZV)) and the Hamburg Water Police
- Raising awareness among the control officers deployed, in particular of the need to consistently examine the entry requirements in respect of the exempted group of persons (Article 6 I in conjunction with Article 8 III of the Schengen Borders Code, examination of the intention to return and/or taking up of employment, systematic search requests, taking into account a possible transcriptions).
- Consideration of the risk analysis (warning notices, "modi operandi", evaluation of the passenger data file)
- If necessary, training for specific purposes (further training for border police, training in documents)
- If necessary, adaptation of the number of personnel in the 1st and 2nd lines of control, targeted integration of specially qualified staff (profilers, document experts, civil servants with language skills)
- Situation-adapted administrative and expert supervision
- Close cooperation with neighbouring authorities in Germany
  - Cooperation with the staff of the Federal Customs Administration deployed at airports - Possibility of refusal of entry in cases in which criminal offences have been established (importation, stolen goods) before entry has been completed
  - Joint controls (first gate checks)
- Measures within the framework of the "anticipatory strategy" and training and equipment assistance; among other things, raising awareness among document and visa advisors and liaison officers in the respective countries, providing training for the affected airlines and authorities as well as contact persons locally (compliance with entry requirements, random checks of travel-relevant documents such as return flight tickets and hotel reservations, readmission agreements as well as recognition of falsified or forged documents) in the event of ongoing migration movements; in future also to be supported by the travel approval system (ETIAS)<sup>32</sup>.

The intensity of the measures described depends in each case on the information available and on the assessment of the situation.

In February and March 2018, the Federal Police carried out a priority measure at airports with regard to Georgian citizens, whereby persons were refused entry if they did not fulfil the conditions for visa-free entry. Approximately 60 persons were affected (see also Mendelin 2018). In addition, all offices throughout Germany were made aware accordingly.

<sup>31</sup> The following section is essentially based on written information supplied by the Federal Police for this study.

<sup>32</sup> European Travel Information and Authorisation System.



## 5.2 Measures in and cooperation with visa-free countries

The measures in the countries examined in this study include diplomatic initiatives and official cooperation on the one hand, and information campaigns aimed at the population of the countries concerned on the other. Measures relating to visa policy are primarily the responsibility of the European Commission (see Chapter 2.3). One of the most important measures in this context was the introduction of the suspension mechanism and the ongoing monitoring of the criteria for visa liberalisation (cf. Chapter 2.3.2). In addition, the EU also takes diplomatic measures and concludes concrete agreements – one example are the roadmaps agreed with the visa-free countries of the Western Balkans in 2010 to ensure that visa-free travel is only used for the intended purpose, namely short stays. This was done, for example, by implementing information campaigns (EASO 2012: 26). In 2011, the EU also agreed with the Western Balkan countries that they would check their own nationals on departure and prevent them from leaving the country if they did not meet the conditions for entry into the EU (EASO 2012: 26; see also European Commission 2017b: 2).

Germany has also taken diplomatic measures, for example by organising meetings at government level, especially in 2014 and 2015 for the Western Balkan countries (EASO 2015: 29), and by adopting a diplomatic initiative for the acceptance of EU travel documents to facilitate returns (see Chapter 5.4). A more recent example is the increased cooperation with Georgia in the wake of the rise in the number of asylum applications filed at the beginning of 2018 (see Chapter 3.4.2). This increase led to demands to examine a suspension of the visa waiver (Stoldt 2018). As a result, the Federal Ministry of the Interior, Building and Community and the Federal Foreign Office agreed in March 2018 during political talks with the Georgian government to intensify border police cooperation and to further intensify cooperation on returns (BMI 2018a; Bewarder 2018). The Länder, which are responsible for return measures, are also in contact with the countries of origin (for example MDR 2018). Cooperation also exists at the level of police authorities, for example in the form of twinning projects with the Federal Police.

Before visa liberalisation was introduced for Ukrainian citizens, postings were distributed on all websites of the Embassies of the Schengen states and on so-

cial media (Facebook) in order to provide information about the applicable entry regulations. Following visa liberalisation for Georgian nationals and the rise in the number of asylum applications, Georgia also launched information campaigns supported by the German government. A removal to Georgia was broadcast on Georgian television, for instance.

Both the Federal Police and the Federal Foreign Office describe their cooperation with third countries exempt from visa requirements as very good, especially in the area of returns. This is also due to the fact that good cooperation is already a criterion for introducing visa exemptions (cf. Chapter 2.3). Particularly since the introduction of the suspension mechanism for the visa waiver, the third countries concerned will probably strive to achieve good cooperation in the long term in order to maintain the visa waiver for their nationals. Not least for this reason, the visa-free third countries are implementing the above-mentioned measures against potential misuse of the visa waiver, for example information campaigns and exit controls.

## 5.3 Asylum policy measures

A number of measures have been taken in Germany to control, organise and limit asylum immigration particularly in response to the increased number of asylum applications filed since 2014 – both in general and with a view to the Western Balkan countries in particular. These measures cannot be described exhaustively here (see Grote 2018 for a more comprehensive overview). Instead, the present chapter will outline in particular the measures specifically aimed at reducing asylum immigration from the Western Balkan countries and increasing the number of returnees.

### 5.3.1 Processing of asylum applications

Since 2012, asylum applications from the Western Balkan countries have been prioritised by the Federal Office for Migration and Refugees with the aim of speeding up the asylum procedure for nationals of these countries. Between February and September 2014, priority was given to processing subsequent applications. From February 2015, asylum applications filed by Kosovar nationals were bundled and prioritised at several branch offices of the Federal Office for Migration and Refugees with the aim of ensuring a decision on the applications was taken within 14 days (EMN/BAMF

2016: 51). In the second half of 2015, this practice was extended to other Western Balkan countries, including Albania (Grote 2018: 40). The short processing time was also intended to act as a deterrent to other potential immigrants (Bröker 2015: 2).

### 5.3.2 Information measures

Particularly in 2015, a range of information measures were implemented in the Western Balkan countries with a view to providing information about the low prospects in the asylum procedure and the consequences of an asylum application being rejected. These included:

- Advertisements in six Albanian daily newspapers [...].
- Interview (...) by the Deutsche Welle radio station with the former head of the Federal Office for Migration and Refugees, Dr. Manfred Schmidt, aired online in Albanian and Serbian, as well as in the largest Albanian TV channel Top Channel TV and in Bosnian-Herzegovinian and Kosovar media.
- Facebook ads in the national languages in Albania and Serbia. Internet reports/press releases on relevant aspects, such as re-entry bans and accelerated procedures.
- Internet pages in the national languages providing information about the conditions for granting protection in Germany, the impossibility of obtaining protection due to economic hardship, possibilities of voluntary returns, and the fact that persons not willing to return to their country of origin voluntarily will be removed (Deutscher Bundestag 2015b: 5).

### 5.3.3 Classification as safe countries of origin

Since the 'Act on the classification of further countries as safe countries of origin and to facilitate labour market access for asylum seekers and foreigners whose removal has been suspended' (Gesetz zur Einstufung weiterer Staaten als sichere Herkunftsstaaten und zur Erleichterung des Arbeitsmarktzugangs für Asylbewerber und geduldete Ausländer) entered into force on 6 November 2014, Bosnia and Herzegovina, FYR Macedonia and Serbia have been considered safe countries of origin. In 2015, Albania, Kosovo and Montenegro were also declared safe countries of origin with the entry into force of the Asylum Procedures Acceleration Act (Asylverfahrensbeschleunigungsgesetz) on 24 October 2015. The Federal Government adopted

the draft law classifying Georgia (as well as Algeria, Morocco and Tunisia, whose citizens need a visa to enter the Schengen area) as a safe country of origin on 18 July 2018 (BMI 2018b). The draft must be adopted by the Deutscher Bundestag and the Bundesrat before the amendment enters into force.

The legal determination of safe countries of origin primarily affects the asylum procedure, but also the social benefits granted during the procedure and access to the labour market (cf. Chapter 5.3.4). In asylum procedures, it is assumed that neither political persecution nor inhuman or degrading punishment or treatment exists in safe countries of origin (Article 16a paragraph 3 of the Basic Law (GG)). Persons from safe countries of origin must prove this assumption is wrong in their individual case in order to have a right to international protection. If there is no right to protection, asylum applications from persons from safe countries of origin are rejected as manifestly unfounded (Section 29a subs. 1 of the Asylum Act). As a result, the period for voluntary departure and for filing a complaint against the refusal are shortened to seven days (Section 29a subs. 1; Section 36 subs. 1 of the Asylum Act, cf. Chapter 5.4).

With Asylum Package II,<sup>33</sup> the possibility of an accelerated asylum procedure was also introduced, inter alia, for asylum seekers from safe countries of origin and subsequent applicants (Section 30a of the Asylum Act; EMN/BAMF 2017: 38). Since then, asylum seekers can be accommodated at 'special reception facilities' specifically designed for the implementation of accelerated procedures (Section 5 subs. 5 of the Asylum Act). In accelerated procedures, the Federal Office for Migration and Refugees decides on the asylum application within one week; if this is not possible, the procedure is continued as a regular procedure (Section 30a subs. 2 of the Asylum Act).

Another amendment to the law in 2015 concerned the imposition of re-entry bans. With the entry into force of the 'Act Redefining the Right to Remain and the Termination of Residence' (Gesetz zur Neubestimmung des Bleiberechts und der Aufenthaltsbeendigung) on 1 August 2015, the possibility of imposing an additional ban on entry and residence was introduced "if the asylum application by applicants from safe countries of origin is rejected as manifestly unfounded or if a second or subsequent application has repeatedly failed to lead to a further asylum proce-

<sup>33</sup> Act on the introduction of accelerated asylum procedures (Gesetz zur Einführung beschleunigter Asylverfahren), which entered into force on 17 March 2016.

ture" (Section 11 subs. 7 sentence 1 nos. 1 and 2 of the Residence Act; Hoffmeyer-Zlotnik 2017: 50). This amendment was also explicitly aimed at reducing "asylum applications by persons from the safe countries of origin in the Western Balkans" (EMN/BAMF 2016: 49).

The classification of the Western Balkan countries as safe countries of origin has been criticised in particular by welfare associations, churches and non-governmental organisations. The criticism was directed, on the one hand, at the fact that the regulations affected Sinti and Roma from the Western Balkan countries in particular, who suffer discrimination in the respective countries (Zentralrat Deutscher Sinti und Roma 2017), and, on the other hand, at the fact that the number of new arrivals from the countries concerned had already decreased in some cases before they were classified as safe countries of origin (Deutscher Bundestag 2017b: 2f.).

### 5.3.4 Restrictive measures for persons with little prospect to remain

With the sharp rise in the number of asylum seekers in 2015, a number of measures were taken to distinguish between applicants with 'good prospect to remain' and those with little prospect to remain', for example in terms of access to the labour market, integration benefits or during the asylum procedure. Persons from safe countries of origin are considered to have 'little prospect to remain'. (Grote 2018: 20).

On 24 October 2015, the 'Act on the introduction of accelerated asylum procedures' established the priority of benefits in kind over cash benefits during asylum seekers's stay at initial reception facilities (Section 3 subs. 1 of the the stay of); at the same time, the possible maximum length of stay at initial reception facilities was extended (Grote 2018: 38). While asylum seekers can be obliged to live in an initial reception facility for up to six months, this applies to applicants from safe countries of origin until the end of their asylum procedure (Section 47 subs. 1 sentence 1 and subs. 1a sentence 1 of the Asylum Act).<sup>34</sup> The so-called residence obligation was also reintroduced, according to which asylum seekers are obliged to stay only in the

district of the immigration authority responsible for them as long as they are obliged to live in an initial reception facility (Section 59a subs. 1 sentence 2 of the Asylum Act; Grote 2018: 38). During this period, they are also prohibited from working (Section 61 subs. 1 of the Asylum Act). Under the same Act, a prohibition on employment for asylum seekers from safe countries of origin who have applied for asylum after 31 August 2015 also came into force (Section 61 subs. 2 of the Asylum Act).

Furthermore, asylum seekers from safe countries of origin or those who have little prospect to remain are excluded from some integration services, such as the integration course or the job-related German language courses (Section 44 subs. 4 sentence 3; Section 45a subs. 2 sentences 3-4 of the Residence Act). Persons from safe countries of origin are also excluded from the temporary suspension of removal introduced in 2015, which grants the right to remain for the duration of vocational training and beyond, if they have submitted an asylum application after 31 August 2015 and this application has been rejected (Tangermann/Hoffmeyer-Zlotnik 2018: 71).

"According to the Federal Government, the restrictions were aimed at enhancing motivation among asylum seekers to return to the safe countries of origin voluntarily in the near future on the one hand, while greatly reducing asylum migration from these countries on the other" (Grote 2018: 20).

## 5.4 Return policy measures

Persons entering the Schengen area without a visa are permitted to stay there for a maximum of 90 days - after which they are obliged to leave if they do not acquire a right of residence on another basis. Before the obligation to leave the country is enforced by removal, persons obliged to leave the country must in principle be granted a period of between seven and 30 days to leave the country independently (Section 59 subs. 1 sentence 1 of the Residence Act). There are no special regulations regarding the return of persons from visa-exempt countries. However, special rules apply to rejected asylum seekers from safe countries of origin: For them, the exit period is usually only seven days, as rejected applications are usually deemed to be manifestly unfounded (Section 29a subs. 1; Section 36 subs. 1 of the Asylum Act). Complaints against rejection of applications considered to be manifestly unfounded can be within seven days, and the lodging of a

<sup>34</sup> With the 'Act to Improve the Enforcement of the Obligation to Leave the Country' (Gesetz zur besseren Durchsetzung der Ausreisepflicht), the Länder were given the opportunity to oblige all other asylum applicants whose asylum applications are inadmissible or manifestly unfounded to live in initial reception facilities for up to 24 months (Section 47 subs. 1b of the Asylum Act). The law entered into force on 29 July 2017.

complaint does not generally have a suspensory effect (Section 74 subs. 1, Section 36 subs. 3 sentence 1 of the Residence Act).<sup>35</sup>

A frequent reason why removals cannot be carried out despite the obligation to leave the country is the lack of appropriate travel documents or the confirmation of the identity and nationality of the persons to be removed by their country of origin (Hoffmeyer-Zlotnik 2017: 34). In September 2015, the Federal Government therefore launched a diplomatic initiative to facilitate returns by means of an EU travel document. The Western Balkan countries agreed to the proposal, thus enabling returns with an EU travel document since 2016.<sup>36</sup> In the case of assisted voluntary return and removals using EU travel documents, the countries of destination no longer issue the documents themselves; the respective Länder are responsible for doing so as well as for establishing identity, which considerably simplifies the process. (Hoffmeyer-Zlotnik 2017: 35).

Since 2015 in particular, more measures have been taken to increase both the number of voluntary departures and the number of removals, e.g. through the information portals "ReturningfromGermany"<sup>37</sup> and "build-your-future"<sup>38</sup> or by providing information on returns already when third-country nationals file an asylum application (cf. EMNBAMF 2017: 62). These were also directed in particular at rejected asylum seekers from the Western Balkan countries. However, persons from visa-free countries can only benefit to a limited extent or under certain conditions from the nationwide support possibilities for voluntary returns and reintegration. Currently, only the costs of the return journey can be covered for these persons under the REAG/GARP programme (BAMF 2017b). Since 2015, the same applies to Kosovar citizens, although they are not exempt from the visa requirement (EMN/BAMF 2016: 43). For Ukraine and Georgia, the REAG/GARP and StartHilfe Plus funding programmes are subject to cut-off date regulations. In order to be able to receive all of the funding available, entry must have taken place prior to the visa waiver (Georgia 28 March 2017/Ukraine 11 June 2017). Persons from Albania and

Serbia who have been living in Germany for at least two years with a suspension of removal may qualify for reintegration assistance within the framework of the Federal Programme StartHilfePlus (IOM 2018).

Measures were also taken in the area of reintegration. The German Society for International Cooperation (GIZ) established the German Information Centre for Migration, Training and Career (DIMAK) in Kosovo, Albania and Serbia in 2015 and 2016 on behalf of the Federal Ministry for Economic Cooperation and Development (EMN/BAMF 2017: 75 et seq). These offer advice both on the possibilities and prerequisites for legal migration to Germany and on integration into the local labour market. Returnees are explicitly addressed as a target group.

A number of changes were also made in the area of forced returns, in particular between 2015 and 2017, including the prohibition of announcing removals, the stricter regulation of the possibilities to suspend removals for medical reasons and the extension of the custody to secure departure and detention to prepare removal (Hoffmeyer zlotnik 2017: 17). These were intended to facilitate the implementation of removals. In the view of the Federal Government, "the consistent return of persons obliged to leave the country" contributed to the significant decline in asylum applications from Western Balkan countries (Deutscher Bundestag 2018b: 2).

In the view of the Federal Government, cooperation with the countries of origin in the form of "targeted technical support [...] for sustainable support of the return process" is also beneficial (Deutscher Bundestag 2018c: 9). Visa policy is also seen as an important return policy lever. "The Federal Government has managed to ensure that this link is legally anchored in the new draft of the Visa Code [...]" (Deutscher Bundestag 2018c: 9).

## 5.5 Measures to facilitate legal migration

In addition to the numerous restrictive asylum policy measures, a simplified legal labour migration channel for nationals of the Western Balkan countries has been introduced.<sup>39</sup> Since 1 January 2016, nationals of Albania, Bosnia and Herzegovina, Kosovo, FYR Mac-

35 "In order to prevent removal from taking place despite a complaint being lodged, the person concerned must therefore file an application for a suspensive order in accordance with Section 80 subs. 5 of the Administrative Court Rules (Verwaltungsgerichtsordnung (VwGO)) at the same time as the complaint against the negative asylum decision (so-called urgent application)" (Hoffmeyer-Zlotnik 2017: 43; cf. also Hailbronner 2017: 460).

36 In the case of Bosnia-Herzegovina always subject to a time limit; currently until 30 June 2019.

37 [www.returningfromgermany.de](http://www.returningfromgermany.de) (4 September 2018).

38 [www.build-your-future.net](http://www.build-your-future.net) (4 September 2018).

39 The following information is mainly based on EMN/BAMF (2018: 30).

edonia, Montenegro and Serbia can more readily obtain a residence permit for the purpose of employment (Section 26 subs. 2 of the Employment Regulation (Beschäftigungsverordnung (BeschV)) for a limited period until the end of 2020. With the approval of the Federal Employment Agency, which carries out a priority examination, any employment can now be taken up, irrespective of whether the persons concerned have completed vocational training or have German language skills. The prerequisite, however, is that a concrete job offer has already been made in Germany before the residence permit is issued. A further condition is that applicants have not received any benefits under the Asylum Seekers Benefits Act (Asylbewerberleistungsgesetz) in Germany in the 24 months preceding the application.<sup>40</sup> The application must be submitted to the competent German diplomatic mission or consular post in the country of origin.

With the waiver of qualification requirements, the regulation represents a new departure "because it disregards the logic of the previous law, which, by and large, restricted access to the labour market to qualified and highly qualified workers" (Brücker/Burkert 2017: 18). The exclusion of persons who lived in Germany as asylum seekers in the two years preceding the application served primarily to decouple asylum migration from labour migration. "In this way, the incentives for immigration via the asylum system were reduced because the prospect of labour migration is excluded for a longer period of time" (Brücker/Burkert 2017: 2).

The number of long-term visas issued under this simplified legal labour migration channel increased significantly between 2016 and 2017, but is expected to decrease again in the first half of 2018 (Table 14). This is due to a prioritisation of visa applications for other reasons; the demand for visas within the simplified legal labour migration channel remains high and is still increasing. Between 2015 and 2017, about half of all visas were issued in Bosnia-Herzegovina (26.1%) and Kosovo (25.2%), followed by Serbia (18.4%) and FYR Macedonia (17.7%). In Albania 9.1% of all visas were issued; in Montenegro 3.5% (Deutscher Bundestag 2017c: 2; Deutscher Bundestag 2018b: 9). The number of approvals issued by the Federal Employment Agency is significantly higher than the number of visas issued. On the one hand, this may be due to the fact that the requirements for issuing visas are not

met or the necessary documents are not being submitted. A further reason may be the sometimes very long waiting times for the issuance of visas at the German missions abroad (Deutscher Bundestag 2018b: 4) - leading, for example, to employers in Germany withdrawing their job offer before a visa has been issued or to pre-approvals already issued by the Federal Employment Agency expiring. No more pre-approvals are being issued since 1 November 2017. The Federal Employment Agency now only checks them after a visa has been issued. (Deutscher Bundestag 2018: 4; Brücker/Burkert 2017: 8).

**Table 14: Approvals issued by the Federal Employment Agency and visas issued under the simplified legal labour migration channel**

	2015	2016	2017	2018 (first 6 months)
Approvals issued by the Federal Employment Agency	377	42,546	74,577	
Visas issued (Section 26 subs. 2 of the Employment Regulation)		18,806 (incl. Dec. 2015)	25,341	10,976

Sources: Deutscher Bundestag 2017c; Deutscher Bundestag 2018b; Federal Foreign Office.

Approximately half of the approvals issued by the Federal Employment Agency in 2016 and 2017 were for the category of "helpers" and about 45% for the category of "skilled workers", with these categories referring to the qualification required for the respective position and not necessarily to the qualification of the persons concerned. At around 3%, the "specialist" and "expert" categories accounted for just a small proportion of the approvals issued (Deutscher Bundestag 2018b: 12; 15). The most frequent industries for which approvals were granted in 2017 were the construction and hospitality industries (Deutscher Bundestag 2018b: 24).

<sup>40</sup> Exceptions to this were made by a transitional regulation for persons from the Western Balkan countries who applied for asylum between 1 January 2015 and 24 October 2015 and who left Germany immediately after 24 October 2015.



# 6 Conclusion

## 6.1 Impact of visa liberalisation and its evaluation

The effects of visa liberalisation are diverse and cannot be clearly determined with regard to further migration processes. They are assessed differently by the various actors. From the perspective of the Federal Foreign Office, for example, visa liberalisation has had a positive impact on bilateral relations, partly because it represents an important achievement for third countries and their nationals. With regard to the effects on public authorities, it can be observed that the abolition of the visa requirement has reduced the administrative burden on diplomatic missions and consular posts. In the opinion of the Federal Police, visa liberalisation has also reduced the administrative burden and the number of checks carried out at border crossings. Possible abuses of visa exemptions, such as taking up employment during a visa-free stay or so-called "overstaying", are however difficult to identify.

It should be noted that regarding the long-term migration processes examined in this study, no direct link can be established to visa liberalisation, as the latter only applies to short stays. The development of asylum application figures from the countries under review, the often parallel developments with regard to Kosovo and the assessments of various actors indicate that visa liberalisation cannot be the sole explanation for the increase in asylum applications from any country in particular. Other factors are equally, if not more, important.

For the Western Balkan countries, the number of asylum applications and residence permits issued for humanitarian reasons increased in the years following visa liberalisation. However, in the medium term and as a result of asylum policies and the introduction of the simplified legal labour migration channel, the share of humanitarian immigration has decreased and the share of immigration for work purposes has increased. The same applies to the developments described in the area of irregular migration. This makes it clear that visa liberalisation is only one of several factors influencing migration processes.

## 6.2 Effectiveness of measures taken

The measures described in the context of visa liberalisation were partly taken in preparation for and partly as a response to developments which had been considered, at least in part, by the actors concerned as a consequence of visa liberalisation. The main aim of the preparatory measures was to prevent or punish violations of the requirements for visa-free entry. This includes border police measures and measures in the visa-free countries themselves and cooperation with these countries. The measures taken in response to developments observed, inter alia, as a consequence of visa liberalisation, include the asylum measures taken and measures aimed at the return of irregular residents (see Chapter 5).

According to the Federal Government and the Federal Police, the combination of asylum policy measures, a more consistent enforcement of the obligation to return and the introduction of the simplified legal labour migration channel for antionals from Western Balkans countries has contributed to the significant decline in asylum applications from Western Balkan countries (Deutscher Bundestag 2018b: 2). However, information campaigns and cooperation between the countries of origin concerned, especially in the case of removals, are also seen as reasons for the decline in the number of asylum applications filed and the sometimes very sharp increase in the number of returnees. The Federal Police and the Federal Foreign Office rate the cooperation with visa-free third countries as very good, especially with regard to returns. From their point of view, the good cooperation between the third countries can be primarily attributed to their interest in rapprochement with the EU and in maintaining visa-free travel.

However, most of the benefits of visa liberalisation are even more difficult to quantify than the trends outlined here. These include increased short-term mobility, tourism, simplification of family visits and business trips, and closer links between visa-free third countries and the EU and its Member States.

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# List of abbreviations

AA	Federal Foreign Office (Auswärtiges Amt)
Abs.	Sub-section
Article	Artikel
AsylG	Asylum Act (Asylgesetz)
BA	Federal Employment Agency (Bundesagentur für Arbeit)
BAMF	Federal Office for Migration and Refugees (Bundesamt für Migration und Flüchtlinge)
BKA	Federal Criminal Police Office (Bundeskriminalamt)
BMI	Federal Ministry of the Interior, Building and Community (Bundesministerium des Innern, für Bau und Heimat)
BPOL	Federal Police (Bundespolizei)
BPOLP	Federal Police Headquarters (Bundespolizeipräsidium)
CDU/CSU	Christlich Demokratische Union Deutschlands /Christlich-Soziale Union in Bayern
EASO	European Asylum Support office (Europäisches Unterstützungsbüro für Asylfragen)
Ebd.	Ebenda
EC	European Community
incl.	including
FYR Macedonia	Former Yugoslav Republic of Macedonia
EMN	European Migration Network
EES	Entry Exit System
ESI	European Stability Initiative
ESTA	Electronic System for Travel Authorization
et al.	Et alii, et aliae or et alia (and others)
ETIAS	European Travel Information and Authorisation System
EU	European Union
EURODAC	European Dactyloscopy
Frontex	European Border- and Coast Guard Agency
GARP	Government Assisted Repatriation Programme
GG	Basic Law (Grundgesetz für die Bundesrepublik Deutschland)
GIZ	German Society for International Cooperation (Gesellschaft für Internationale Zusammenarbeit)
IOM	International Organization for Migration
ITC	Intra-Corporate Transfer
KOM	European Commission
Lit.	littera (letter)
MDR	Mitteldeutscher Rundfunk (public radio broadcasting corporation)

Nr.	number
n.d.	no date
PES	Police Entry Statistics (Polizeiliche Eingangsstatistik)
PCS/PKS	Police crime statistics/Polizeiliche Kriminalstatistik
LTV	Limited Territorial Validity
REAG	Reintegration and Emigration Programme for Asylum Seekers in Germany
VIS	Visa Information System

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# Imprint

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**Publisher:**

Federal Office for Migration and Refugees  
German EMN National Contact Point and Research Centre Migration, Integration and Asylum  
90461 Nuremberg

**Ordering possibility:**

Bundesamt für Migration und Flüchtlinge  
Frankenstraße 210  
90461 Nürnberg  
[www.emn-germany.de](http://www.emn-germany.de)  
E-Mail: [info@bamf.bund.de](mailto:info@bamf.bund.de)

**Editor:**

Paula Hoffmeyer-Zlotnik | Division FFI - International Migration and Migration Governance

**Editorial assistance:**

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**Date:**

November 2018

**Layout:**

Jana Burmeister | Division FZ1 – Research management, secretariate of the Scientific Advisory Board

**Photo:**

Titel: iStock

**Suggested citation:**

Hoffmeyer-Zlotnik, Paula (2019): Developments in Germany in the context of visa liberalisation. Study by the German National Contact Point for the European Migration Network (EMN). Working Paper 83 of the Research Centre of the Federal Office for Migration and Refugees, Nuremberg: Federal Office for Migration and Refugees.

**ISSN:**

1865-4770 Printversion

**ISSN:**

1865-4967 Internetversion

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